

Employers with 50 or More Employees

<http://www.sba.gov/healthcare>

Key Provisions Under the Affordable Care Act for Employers with 50 or More Employees

Implementation of the Affordable Care Act occurs in stages, with many of the reforms and requirements taking effect in 2013 and 2014. Some of the provisions that may impact employers with 50 or more employees include:

- **Employer Notice to Employees of the New Health Insurance Marketplace**

Under the Affordable Care Act, employers covered by the Fair Labor Standards Act (generally, those firms that have at least one employee and at least \$500,000 in annual dollar volume of business), must provide notification to their employees about the new Health Insurance Marketplace; inform employees that they may be eligible for a premium tax credit if they purchase coverage through the Marketplace; and advise employees that if they employee purchase a plan through the Marketplace, they may lose the employer contribution (if any) to any health benefits plan offered by the employer. Employers are required to provide this notice to all current employees by **October 1, 2013**, and to each new employee at the time of hire beginning October 1, 2013, regardless of plan enrollment status (if applicable) or of part-time or full-time status. The Department of Labor has provided employers with two sample notices they may use to comply with this rule, one for [employers who do not offer a health plan](#) and another for [employers who offer a health plan](#) for some or all employees. For more information refer to [DOL's Technical Guidance](#).

- **Employer Shared Responsibility Provisions**

Beginning in 2015, employers with 50 or more full-time/full-time equivalent employees that do not offer affordable health insurance that provides minimum value to their full-time employees (and dependents) may be required to pay an assessment if at least one of their full-time employees is certified to receive a premium tax credit in an individual health insurance Marketplace. A full-time employee is one who is employed an average of at least 30 hours per week. The assessment, known as Employer Shared Responsibility, will offset part of the cost of the Marketplace premium tax credits. Treasury recently issued [transitional relief](#) to employers covered by these rules indicating that no shared responsibility payments will apply until 2015. You can refer to the [Proposed Regulations](#) for more information about these provisions. To determine if you have 50 or more full-time or full-time equivalent employees and are therefore covered by the Employer Shared Responsibility rules, [click here](#).

- **Health Insurance Coverage Reporting Requirements**

Beginning in 2015, employers subject to the Employer Shared Responsibility rules described above must [provide the IRS with information](#) about full time employees' coverage under the health plans and the cost of benefits provided. Likewise, employers that sponsor self-insured plans must submit [reports](#) detailing information for each covered individual. Treasury is expected to publish Proposed Rules this summer that provide further guidance about these provisions.

- **Summary of Benefits and Coverage (SBCs) Disclosure Rules**

Employers are required to provide employees with a standard "Summary of Benefits and Coverage" form explaining what their plan covers and what it costs. The purpose of the SBC form is to help employees better understand and evaluate their health insurance options. Penalties may be imposed for non-compliance. For more information, refer to this [completed sample of the SBC form](#) from the U.S. Department of Labor.

- **Medical Loss Ratio Rebates**

Under ACA, insurance companies must spend at least 80% of premium dollars on medical care rather than administrative costs. Insurers who do not meet this ratio are required to provide rebates to their policyholders, which is typically an employer who provides a group health plan. Employers who receive these [premium rebates](#) must determine whether the rebates constitute plan assets. If treated as a plan asset, employers have discretion to determine a reasonable and fair allocation of the rebate. For more information on the federal tax treatment of Medical Loss Ratio rebates, refer to [IRS's FAQs](#).

- **W-2 Reporting of Aggregate Health Care Costs**

Beginning January 2013 (applicable to 2012 reporting), most employers must report the aggregate annual cost of employer-provided coverage for each employee on the Form W-2. The new W-2 reporting requirement is informational only and it does not require taxation on any health plan coverage. Reporting is required for most employer-sponsored health coverage, including group medical coverage. **Small Employer Exception:** For 2012 reporting and beyond until further guidance is issued, the W-2 reporting requirement does not apply to employers required to file fewer than 250 Form W-2s in the prior calendar year. To learn more about the requirements, as well as exclusions, visit this [page](#) at IRS.gov.

- **Limits on Flexible Spending Account Contributions**

For plan years beginning on or after January 2013, the maximum amount an employee may elect to contribute to health care flexible spending arrangements (FSAs) for any year will be capped at \$2500, subject to cost-of-living adjustments. Note that the limit only applies to elective employee contributions and does not extend to employer contributions. To learn more about FSA Contributions, as well as what is excluded from the cap, refer to this [document](#) provided by the IRS.

- **Additional Medicare Withholding on Wages**

Beginning January 1, 2013, the ACA increases the employee portion of the Medicare Part A Hospital Insurance (HI) withholdings by .9% (from 1.45% to 2.35%) on employees with incomes of over \$200,000 for single filers and \$250,000 for married joint filers. It is the employer's obligation to withhold this additional tax, which applies only to wages in excess of these thresholds. The employer portion of the tax will remain unchanged at 1.45%.

- **New Medicare Assessment on Net Investment Income**

Beginning January 1, 2013, a 3.8% tax will be assessed on [net investment income](#) such as taxable capital gains, dividends, rents, royalties, and interest for taxpayers with Modified Adjusted Gross Income (MAGI) over \$200,000 for single filers and \$250,000 for married joint filers. Common types of income that are not investment income are wages, unemployment compensation, operating income from a non-passive business, social security benefits, alimony, tax-exempt interest, and self-employment income.

- **90-Day Maximum Waiting Period**

Beginning January 1, 2014, individuals who are eligible for employer-provided health coverage will not have to wait more than 90 days to begin coverage. The IRS has provided [temporary guidance](#) on how employers should apply the 90-day rule and is expected to provide more information in the near future clarifying these rules.

- **Transitional Reinsurance Program Fees**

The [Transitional Reinsurance Program](#) is a three-year program, beginning in 2014 and continuing until 2016, that reimburses insurers in the individual insurance Marketplaces for high claims costs. The program is funded through fees to be paid by employers (for self-insured plans) and insurers (for insured plans). The U.S. Department of Health and Human Services estimates that the fees for 2014 will be \$5.25 a month (or \$63 for the year) for each individual covered under a health care plan, with the required fee for the following two years to be somewhat lower. The fee applies to all employer-sponsored plans providing major medical coverage, including retiree programs. The U.S. Department of Labor has advised that for self-insured plans, these fees can be paid from plan assets. The IRS has stated that the fees are tax deductible for employers. The U.S. Department of Health and Human Services is expected to provide more information in the near future clarifying the details of this program.

- **Workplace Wellness Programs**

The Affordable Care Act creates new incentives to promote employer wellness programs and encourage employers to take more opportunities to support healthier workplaces. Health-contingent wellness programs generally require individuals to meet a specific standard related to their health to obtain a reward, such as programs that provide a reward to employees who don't use, or decrease their use of, tobacco, and programs that reward employees who achieve a specified level or lower cholesterol. Under final rules that take effect on January 1, 2014, the maximum reward to employers using a health-contingent wellness program will increase from 20 percent to 30 percent of the cost of health coverage. Additionally, the maximum reward for programs designed to prevent or reduce tobacco use will be as much as 50 percent. The final rules also allow for flexibility in the types of wellness programs employers can offer. For more information and to view the final rules, visit www.dol.gov/ebsa.

Employers with Up to 50 Employees

<http://www.sba.gov/healthcare>

Key Provisions Under the Affordable Care Act for Employers with Up to 50 Employees

Implementation of the Affordable Care Act occurs in stages, with many of the reforms and requirements taking effect in 2013 and 2014. Some of the provisions that may impact employers with up to 50 employees include:

- **Small Business Health Options Program (SHOP)**

Starting in 2014, small employers with generally up to 50 employees will have access to the new health care insurance marketplaces through the [Small Business Health Options Program \(SHOP\)](#). Currently, small businesses may pay on average 18% more than big businesses for health insurance because of administrative costs. SHOP will offer small employers increased purchasing power to obtain a better choice of high-quality coverage at a lower cost. Costs are lowered because small employers can pool their risk. To enroll, eligible employers must have an office within the service area of the SHOP and offer SHOP coverage to all full-time employees. In 2016, employers with up to 100 employees will be able to participate in SHOP. HHS recently launched a new Call Center specifically to serve small businesses with 50 or fewer employees interested in the SHOP Marketplace. **For more information, call 1-800-706-7893 (TTY users: 1-800-706-7915) from Monday through Friday, 9 a.m. to 5 p.m. EST.**

- **Employer Notice to Employees of the New Health Insurance Marketplace**

Under the Affordable Care Act, employers covered by the Fair Labor Standards Act (generally, those firms that have at least one employee and at least \$500,000 in annual dollar volume of business), must provide notification to their employees about the new Health Insurance Marketplace; inform employees that they may be eligible for a premium tax credit if they purchase coverage through the Marketplace; and advise employees that if they employee purchase a plan through the Marketplace, they may lose the employer contribution (if any) to any health benefits plan offered by the employer. Employers are required to provide this notice to all current employees by **October 1, 2013**, and to each new employee at the time of hire beginning October 1, 2013, regardless of plan enrollment status (if applicable) or of part-time or full-time status. The Department of Labor has provided employers with two sample notices they may use to comply with this rule, one for [employers who do not offer a health plan](#) and another for [employers who offer a health plan](#) for some or all employees. For more information refer to [DOL's Technical Guidance](#).

- **Summary of Benefits and Coverage (SBCs) Disclosure Rules**

Employers are required to provide employees with a standard "Summary of Benefits and Coverage" form explaining what their plan covers and what it costs. The purpose of the SBC form is to help employees better understand and evaluate their health insurance options. Penalties may be imposed for non-compliance. For more information, refer to this [completed sample of the SBC form](#) from the U.S. Department of Labor.

- **Medical Loss Ratio Rebates**

Under ACA, insurance companies must spend at least 80% of premium dollars on medical care rather than administrative costs. Insurers who do not meet this ratio are required to provide rebates to their policyholders, which is typically an employer who provides a group health plan. Employers who receive these [premium rebates](#) must determine whether the rebates constitute plan assets. If treated as a plan asset, employers have discretion to determine a reasonable and fair allocation of the rebate. For more information on the federal tax treatment of Medical Loss Ratio rebates, refer to [IRS's FAQs](#).

- **Limits on Flexible Spending Account Contributions**

For plan years beginning on or after January 2013, the maximum amount an employee may elect to contribute to health care flexible spending arrangements (FSAs) for any year will be capped at \$2500, subject to cost-of-living adjustments. Note that the limit only applies to elective employee contributions and does not extend to employer contributions. To learn more about FSA Contributions, as well as what is excluded from the cap, refer to this [document](#) provided by the IRS.

- **Additional Medicare Withholding on Wages**

Beginning January 1, 2013, ACA increases the employee portion of the Medicare Part A Hospital Insurance (HI) withholdings by .9% (from 1.45% to 2.35%) on employees with incomes of over \$200,000 for single filers and \$250,000 for

married joint filers. It is the employer's obligation to withhold this additional tax, which applies only to wages in excess of these thresholds. The employer portion of the tax will remain unchanged at 1.45%.

- **New Medicare Assessment on Net Investment Income**

Beginning January 1, 2013, a 3.8% tax will be assessed on **net investment income** such as taxable capital gains, dividends, rents, royalties, and interest for taxpayers with Modified Adjusted Gross Income (MAGI) over \$200,000 for single filers and \$250,000 for married joint filers. Common types of income that are not investment income are wages, unemployment compensation, operating income from a non-passive business, Social Security Benefits, alimony, tax-exempt interest, and self-employment income.

- **90-Day Maximum Waiting Period**

Beginning January 1, 2014, individuals who are eligible for employer-provided health coverage will not have to wait more than 90 days to begin coverage. The IRS has provided **temporary guidance** on how employers should apply the 90-day rule and is expected to provide more information in the near future clarifying these rules.

- **Transitional Reinsurance Program Fees**

The **Transitional Reinsurance Program** is a three-year program, beginning in 2014 and continuing until 2016, that reimburses insurers in the individual insurance Marketplaces for high claims costs. The program is funded through fees to be paid by employers (for self-insured plans) and insurers (for insured plans). The U.S. Department of Health and Human Services estimates that the fees for 2014 will be \$5.25 a month (or \$63 for the year) for each individual covered under a health care plan, with the required fee for the following two years to be somewhat lower. The fee applies to all employer-sponsored plans providing major medical coverage, including retiree programs. The U.S. Department of Labor has advised that for self-insured plans, these fees can be paid from plan assets. The IRS has stated that the fees are tax deductible for employers. HHS is expected to provide more information in the near future clarifying the details of this program.

- **Workplace Wellness Programs**

The Affordable Care Act creates new incentives to promote employer wellness programs and encourage employers to take more opportunities to support healthier workplaces. Health-contingent wellness programs generally require individuals to meet a specific standard related to their health to obtain a reward, such as programs that provide a reward to employees who don't use, or decrease their use of, tobacco, and programs that reward employees who achieve a specified level or lower cholesterol. Under final rules that take effect on January 1, 2014, the maximum reward to employers using a health-contingent wellness program will increase from 20 percent to 30 percent of the cost of health coverage. Additionally, the maximum reward for programs designed to prevent or reduce tobacco use will be as much as 50 percent. The final rules also allow for flexibility in the types of wellness programs employers can offer. For more information and to view the final rules, visit www.dol.gov/ebsa.

- **Health Insurance Coverage Reporting Requirements**

Beginning with health coverage provided on or after January 1, 2014, employers that sponsor self-insured plans must submit **reports** to the IRS detailing information for each covered individual. The first of these reports must be filed in 2015. The IRS is expected to provide more information in the near future clarifying these requirements.

Find Insurance Options

[Find and compare health plans](#) for your employees.

Key Provisions Under the Affordable Care Act for Employers with Fewer Than 25 Employees

<http://www.sba.gov/healthcare>

Implementation of the Affordable Care Act occurs in stages, with many of the reforms and requirements taking effect in 2013 and 2014. Some of the provisions that may impact employers with fewer than 25 employees include:

- **Small Business Health Care Tax Credits**

The small business Health Care Tax Credit helps small employers afford the cost of health care coverage for their employees and is specifically targeted for those employers with low- and moderate-income workers. The credit is designed to encourage small employers to offer health insurance coverage for the first time or maintain coverage they already have. Since 2010, businesses that have fewer than 25 full-time equivalent employees (FTEs), pay average annual wages below \$50,000, and that contribute 50% or more toward employees' self-only health insurance premiums may qualify for a [small business tax credit](#) of up to 35% to help offset the costs of insurance. In 2014, this tax credit goes up to 50% and is available to qualified small employers that participate in the [Small Business Health Options Program \(SHOP\)](#). Eligible small employers can claim the current credit through 2013, and the enhanced credit can be claimed for any two consecutive taxable years beginning in 2014 through the SHOP. To calculate your FTEs and average annual wages for the purposes of this credit, refer to this [Q&A](#) from IRS. You can also use this [Small Business Health Care Credit Estimator](#) to help you find out whether you're eligible for the credit and how much you might receive.

- **Small Business Health Options Program (SHOP)**

Starting in 2014, small employers with generally up to 50 employees will have access to the new health care insurance marketplaces through the [Small Business Health Options Program \(SHOP\)](#). Currently, small businesses may pay on average 18% more than big businesses for health insurance because of administrative costs. SHOP will offer small employers increased purchasing power to obtain a better choice of high-quality coverage at a lower cost. Costs are lowered because small employers can pool their risk. To enroll, eligible employers must have an office within the service area of the SHOP and offer SHOP coverage to all full-time employees. In 2016, employers with up to 100 employees will be able to participate in SHOP. HHS recently launched a new Call Center specifically to serve small businesses with 50 or fewer employees interested in the SHOP Marketplace. **For more information, call 1-800-706-7893 (TTY users: 1-800-706-7915) from Monday through Friday, 9 a.m. to 5 p.m. EST.**

- **Employer Notice to Employees of the New Health Insurance Marketplace**

Under the Affordable Care Act, employers covered by the Fair Labor Standards Act (generally, those firms that have at least one employee and at least \$500,000 in annual dollar volume of business), must provide notification to their employees about the new Health Insurance Marketplace; inform employees that they may be eligible for a premium tax credit if they purchase coverage through the Marketplace; and advise employees that if they employee purchase a plan through the Marketplace, they may lose the employer contribution (if any) to any health benefits plan offered by the employer. Employers are required to provide this notice to all current employees by **October 1, 2013**, and to each new employee at the time of hire beginning October 1, 2013, regardless of plan enrollment status (if applicable) or of part-time or full-time status. The Department of Labor has provided employers with two sample notices they may use to comply with this rule, one for [employers who do not offer](#)  a health plan and another for [employers who offer a health plan](#)  for some or all employees. For more information refer to DOL's [Technical Guidance](#).

- **Summary of Benefits and Coverage (SBCs) Disclosure Rules**

Employers are required to provide employees with a standard "Summary of Benefits and Coverage" form explaining what their plan covers and what it costs. The purpose of the SBC form is to help employees better understand and evaluate their health insurance options. Penalties may be imposed for non-compliance. For more information, refer to this [completed sample of the SBC form](#)  from the U.S. Department of Labor.

- **Medical Loss Ratio Rebates**

Under the ACA, insurance companies must spend at least 80% of premium dollars on medical care rather than administrative costs. Insurers who do not meet this ratio are required to provide rebates to their policyholders, which is typically an employer who provides a group health plan. Employers who receive these [premium rebates](#) must determine

whether the rebates constitute plan assets. If treated as a plan asset, employers have discretion to determine a reasonable and fair allocation of the rebate. For more information on the federal tax treatment of Medical Loss Ratio rebates, refer to [IRS's FAQs](#).

- **Limits on Flexible Spending Account Contributions**

For plan years beginning on or after January 2013, the maximum amount an employee may elect to contribute to health care flexible spending arrangements (FSAs) for any year will be capped at \$2500, subject to cost-of-living adjustments. Note that the limit only applies to elective employee contributions and does not extend to employer contributions. To learn more about FSA Contributions, as well as what is excluded from the cap, refer to this [document](#) provided by the IRS.

- **Additional Medicare Withholding on Wages**

Beginning January 1, 2013, ACA increases the employee portion of the Medicare Part A Hospital Insurance (HI) withholdings by .9% (from 1.45% to 2.35%) on employees with incomes of over \$200,000 for single filers and \$250,000 for married joint filers. It is the employer's obligation to withhold this additional tax, which applies only to wages in excess of these thresholds. The employer portion of the tax will remain unchanged at 1.45%.

- **New Medicare Assessment on Net Investment Income**

Beginning January 1, 2013, a 3.8% tax will be assessed on [net investment income](#) such as taxable capital gains, dividends, rents, royalties, and interest for taxpayers with Modified Adjusted Gross Income (MAGI) over \$200,000 for single filers and \$250,000 for married joint filers. Common types of income that are not investment income are wages, unemployment compensation, operating income from a non-passive business, Social Security Benefits, alimony, tax-exempt interest, and self-employment income.

- **90-Day Maximum Waiting Period**

Beginning January 1, 2014, individuals who are eligible for employer-provided health coverage will not have to wait more than 90 days to begin coverage. The IRS has provided [temporary guidance](#) on how employers should apply the 90-day rule and is expected to provide more information in the near future clarifying these rules.

- **Transitional Reinsurance Program Fees**

The [Transitional Reinsurance Program](#) is a three-year program, beginning in 2014 and continuing until 2016, that reimburses insurers in the individual insurance Marketplaces for high claims costs. The program is funded through fees to be paid by employers (for self-insured plans) and insurers (for insured plans). HHS estimates that the fees for 2014 will be \$5.25 a month (or \$63 for the year) for each individual covered under a health care plan, with the required fee for the following two years to be somewhat lower. The fee applies to all employer-sponsored plans providing major medical coverage, including retiree programs. The U.S. Department of Labor has advised that for self-insured plans, these fees can be paid from plan assets. The IRS has stated that the fees are tax deductible for employers. The U.S. Department of Health and Human Services is expected to provide more information in the near future clarifying the details of this program.

- **Workplace Wellness Programs**

The Affordable Care Act creates new incentives to promote employer wellness programs and encourage employers to take more opportunities to support healthier workplaces. Health-contingent wellness programs generally require individuals to meet a specific standard related to their health to obtain a reward, such as programs that provide a reward to employees who don't use, or decrease their use of, tobacco, and programs that reward employees who achieve a specified level or lower cholesterol. Under final rules that take effect on January 1, 2014, the maximum reward to employers using a health-contingent wellness program will increase from 20 percent to 30 percent of the cost of health coverage. Additionally, the maximum reward for programs designed to prevent or reduce tobacco use will be as much as 50 percent. The final rules also allow for flexibility in the types of wellness programs employers can offer. For more information and to view the final rules, visit www.dol.gov/ebsa.

- **Health Insurance Coverage Reporting Requirements**

Beginning with health coverage provided on or after January 1, 2014, employers that sponsor self-insured plans must submit [reports](#) to the IRS detailing information for each covered individual. The first of these reports must be filed in 2015. The IRS is expected to provide more information in the near future clarifying these requirements.

Key Provisions Under the Affordable Care Act for Self-Employed Individuals

<http://www.sba.gov/healthcare>

Implementation of the Affordable Care Act occurs in stages, with many of the reforms and requirements taking effect in 2013 and 2014. Some of the provisions that may impact self-employed individuals include:

- **Individual Shared Responsibility Provisions**

Starting in 2014, the Individual Shared Responsibility provisions of the Affordable Care Act call for each individual to have basic health insurance coverage (known as minimum essential coverage), qualify for an exemption, or make a shared responsibility payment when filing a federal income tax return. Individuals will not have to make a payment if coverage is unaffordable, if they spend less than three consecutive months without coverage, or if they qualify for an exemption for several other reasons, including hardship and religious beliefs. Minimum essential coverage includes, at a minimum, all of the following categories: Employer-sponsored coverage (including COBRA and retiree coverage), coverage purchased in the individual market, Medicare Part A coverage, Medicaid coverage, Children's Health Insurance Program (CHIP) coverage, certain types of Veterans health coverage, and TRICARE. It does not include certain specialized coverage such as only for vision or dental care, workers' compensation, or coverage only for a specific disease or condition. For more information on the Individual Shared Responsibility requirements and exemptions that may apply, refer to this [Fact Sheet](#) from the U.S. Department of Treasury as well as these [Q&As](#) from IRS.

- **Individual Insurance Marketplaces**

Coverage through new competitive health insurance marketplaces for individuals and small businesses will be in place January 1, 2014 with open enrollment beginning October 1, 2013. The individual [health insurance marketplaces](#) will offer a choice of four levels of benefit packages that differ by the percentage of costs the health plan covers. Individuals and the self-employed may qualify for individual tax credits and subsidies on a sliding scale, based on income. Increased access to quality, affordable health care will make it easier for potential entrepreneurs to go out on their own instead of staying at larger firms simply because of "job lock".

- **Coverage through Medicaid Expansion**

Each state operates a Medicaid program that provides health coverage for lower-income people, families and children, the elderly, and people with disabilities. The eligibility rules for Medicaid are different for each state, but most states currently offer coverage for adults with children at some income level. In addition, under the Affordable Care Act, states have the option to expand Medicaid eligibility to include adults ages 19 – 64 with incomes up to 133% of the Federal Poverty Level (about \$15,000 per year for an individual, \$31,000/year for a family of four). To learn more about your state Medicaid program and other options available to you, use the [insurance and coverage finder](#) or visit [Medicaid.gov](#).

- **New Medicare Assessment on Net Investment Income**

Beginning January 1, 2013, a 3.8% tax will be assessed on [net investment income](#) such as taxable capital gains, dividends, rents, royalties, and interest for taxpayers with Modified Adjusted Gross Income (MAGI) over \$200,000 for single filers and \$250,000 for married joint filers. Common types of income that are not investment income are wages, unemployment compensation, operating income from a non-passive business, Social Security Benefits, alimony, tax-exempt interest, and self-employment income.