



Compliance Corner

January 28, 2014

HEALTH CARE REFORM

IRS Publishes Proposed Regulations on Individual Mandate Exemption for Unaffordable Coverage

On Jan. 23, 2014, the IRS published proposed regulations relating to PPACA's individual mandate, which requires individuals to carry minimum essential health insurance coverage or pay a tax (called a "shared responsibility payment"). The IRS has previously issued final regulations on the individual mandate (as covered in the Sept. 10, 2013, edition of *Compliance Corner*), but those final regulations indicated that subsequent guidance on certain issues was forthcoming. These proposed regulations appear to be that subsequent guidance.

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IRS Releases 2013 Form 8941 and Instructions for Claiming Small Employer Health Insurance Premiums Tax Credit

The IRS recently released the 2013 version of Form 8941, Credit for Small Employer Health Insurance Premiums, and the related instructions. As background,

ANNOUNCEMENTS

February Training Opportunities

In February, NFP Benefits Compliance will host its first training series of 2014. The dates of the training will be Feb. 12, 19 and 26. Topics are "Cost Containment Strategies," "Health Care Reform Update" and "A Discussion of FSAs, HRAs and HSAs." NFP Benefits Compliance reserves the right to change client-facing training topics in the event of significant legislative, judicial or regulatory developments.

You will have the opportunity to ask questions during this webinar. The speaker and moderator will attempt to answer as many questions as possible during the call. If you ask a question and do not receive a response by the end of the webinar, reach out to your advisor for further

eligible small employers that offer health insurance coverage to their employees may be entitled to a tax credit of up to 35 percent of the non-elective contributions they make toward the premium cost. Generally, an eligible small employer is one that has no more than 25 full-time equivalent employees whose average annual wages do not exceed \$50,000 (for 2013). In addition, the employer generally must contribute a uniform percentage of at least 50 percent of the premium cost for employees in order to qualify for the credit.

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Treasury Blog Post Clarifies Treatment for Volunteer Emergency Responders Under the Employer Mandate

On Jan. 10, 2014, Assistant Secretary for Tax Policy Mark Massur wrote a blog post on the U.S. Department of the Treasury's website. In the post, Assistant Secretary Massur stated that the upcoming final regulations regarding the employer mandate will contain a special carve-out for the volunteer emergency responder community.

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U.S. District Court Expands Availability of PPACA Premium Tax Credit

On Jan. 15, 2014, the U.S. District Court for the District of Columbia, in *Halbig v. Sebelius*, 2014 WL 129023 (D.D.C. Jan. 15, 2014), upheld an IRS regulation authorizing the premium tax credit for individuals purchasing insurance on state or federal exchanges.

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CMS Issues Clarification on Special Enrollment Periods and Hardship Exemptions

Under PPACA's individual mandate, most individuals must have health coverage or pay a tax (known as the "individual shared responsibility payment"). PPACA

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REMINDER

Form W-2 Group Health Plan Reporting Requirement Due by Jan. 31, 2014

Employers that filed 250 or more Forms W-2 for 2012 are required to report the cost of applicable employer-sponsored group health plan coverage on Forms W-2 for 2013 (using the code "DD" in Box 12 of 2014 IRS Form W-2). A helpful chart of reportable coverage types is available on an IRS Web page describing the requirement (linked below). Importantly, Forms W-2 for 2013 must be provided to employees no later than Jan. 31, 2014.

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FAQ

Are employers required to offer coverage for pediatric dental services?

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provides an exemption from this payment for individuals with a hardship making it difficult to afford health coverage. However, confusion continues as to when these hardship exemptions apply. In response, CMS recently clarified that in many circumstances individuals will not need to apply for a hardship exemption because they qualify for a special enrollment period.

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HHS Issues Guidance Regarding ERRP and Recordkeeping

On Jan. 16, 2014, HHS posted four new frequently asked questions (FAQs) to its Web page dedicated to the Early Retiree Reinsurance Program (ERRP). The FAQs clarify that documents and materials should be maintained in accordance with HIPAA's recordkeeping requirements. HIPAA requires that records be maintained for a minimum of six years following the end of the plan year in which the costs were incurred, or upon a later date if the records must be maintained for a longer time period otherwise required by law.

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CMS Provides Presentation Explaining SHOP Details

On Jan. 14, 2014, CMS posted a new slideshow presentation within the Registration for Technical Assistance Portal (REGTAP) Library, an online portal designed to provide technical assistance and training related to the health insurance marketplace. While the slideshow is primarily directed toward insurers, it includes information that may be helpful to employers, such as when online enrollment will be available, how to submit an application, and details on claiming the Small Business Health Care Tax Credit.

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Federal Guidance Grants Exceptions for Certain Medicare and Medicaid Beneficiaries

On Jan. 10, 2014, CMS issued a bulletin providing clarification for a small group of Medicare beneficiaries who are losing coverage within the high-risk pools of

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several states. These individuals are identified as being under age 65 and entitled to Medicare due to a disability or end-stage renal disease. The bulletin provides that insurance carriers are permitted to sell individual health insurance policies to these Medicare beneficiaries, without risk of violating the anti-duplication provisions, which prohibit the sales of unnecessary and excessive coverage to Medicare beneficiaries.

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FEDERAL UPDATES

IRS Releases 2014 Version of Publication 15-B, Employer's Tax Guide to Fringe Benefits

The IRS recently released the 2014 version of Publication 15-B, Employer's Tax Guide to Fringe Benefits. Publication 15-B contains information for employers on the tax treatment of fringe benefits, including accident and health coverage, adoption assistance, dependent care assistance, educational assistance, employee discount programs, group-term life insurance, moving expense reimbursements, HSAs and transportation benefits.

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Newly Released IRS Retirement Newsletters Highlight Recent Changes

Newly Released IRS Retirement Newsletters Highlight Recent Changes On Dec 19, 2013, and Jan. 14, 2014, the IRS released IRS Retirement Newsletter Issues 2013-10 and 2014-1, respectively. In these newsletters, the IRS provides guidance on many issues, including in-plan Roth rollovers, determination letter applications and a new process for requesting voluntary closing agreements, among other retirement plan issues.

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New Federal Poverty Level Figures Released

On Jan. 22, 2014, the Federal Poverty Level (FPL) figures for 2014 were published in the Federal Register.

The FPL figures are used for, among other things, determining whether individuals qualify for premium tax credits when purchasing health insurance through a federal or state-run marketplace. The figures are also used for Medicaid determinations and determining exemptions from the requirement to purchase insurance or pay an additional tax.

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