

## **IMPORTANT NEWS**

### **EMPLOYER ACTION REQUIRED!!**

#### **AFFORDABLE CARE ACT EMPLOYEE NOTIFICATIONS**

While many of the provisions of the Patient Protection and Affordable Care Act (PPACA, or ACA, or “Obamacare”) have been delayed or have yet to become effective, one required deadline is fast approaching. That is, almost all employers are required to provide all current employees with a Notice regarding the opening of Health Insurance Marketplaces, which are scheduled to open October 1, 2013. These marketplaces, or “exchanges”, are scheduled to start offering health coverage to individuals and employees of small businesses starting January 1, 2014. NOTE: this does not mean that employers are mandated to offer health insurance coverage to all employees, nor does this particular Notice requirement force employers to change their current health insurance program, nor does it mandate employer provided coverage in any fashion. It is only a Notice requirement that must be distributed to all employees regarding the existence of the Marketplaces/Exchanges.

#### **WHICH EMPLOYERS ARE SUBJECT TO THE NOTICE REQUIREMENT?**

Technically, any employer subject to the Fair Labor Standard Act (FLSA), regardless of size, has to send the Marketplace Notice. FLSA applies to employers that employ one or more employees and have an annual gross dollar volume of at least \$500,000. Generally, this will cover almost all employers.

#### **WHAT SHOULD BE INCLUDED IN THE MARKETPLACE NOTICE?**

You don't have to create your own Notice. You are welcome to use one of the Department of Labor model notices. We have enclosed two model Notices; A) one for employers who offer health plans; and B) one for employers who don't offer health plans. While you can use whichever model Notice applies to your situation, you may feel that these notices may offer either too much or confusing information, and these model Notices actually go beyond the statutory requirement. Should you wish to create your own Notice, the Notice must inform the employees, in a manner calculated to be understood by the average employee, of the following:

1. It must inform each employee of the existence of the Marketplace (Exchange). In Illinois, employees can use [www.HealthCare.gov](http://www.HealthCare.gov) to apply for coverage, compare plans, and enroll. Specific plans and prices will be available on October 1, 2013.
2. It must inform each employee that if the employee purchases a qualified health plan through the Exchange, the employee may be eligible for a premium tax credit if a) the employer plan's share of the total allowed costs of benefits provided under the plan is less than 60% of such costs, or b) the coverage offered to the employee is “Unaffordable” because the cost of single coverage exceeds 9.5% of household income.
3. It must inform each employee that if the employee purchases a qualified health plan through the Exchange, then the employee may lose the employer contribution (if any) to any health benefits plan offered by the employer, and that all or a portion of such contribution may be excludable from income for Federal Tax purposes whereas payments for coverage through the Exchange are usually made on an after-tax basis.

## **WHICH EMPLOYEES MUST RECEIVE THE NOTICE, WHEN, AND IN WHAT FASHION?**

All current employees must receive the Notice. This includes employees who are and are not currently participating in your company health plan, if any. This also includes full and part-time employees. The Notice must be distributed by October 1, 2013 for current employees and within 14 days of hire for new employees. The Notice may be sent to employees via first-class mail, or alternatively it may be provided electronically if the requirements of the Department of Labor electronic disclosure safe harbor are met. It is our feeling that a hand-delivered Notice will be sufficient, as long as you maintain a form in your records signed and dated by each employee when they are given the Notice. And please note, the size of your business is irrelevant, whether less than 50 employees, less than 25 employees or not.

## **WHERE DO I GO FOR QUESTIONS OR MORE INFORMATION?**

While the implementation of ACA and its extensive provisions are complicated and often confusing, this deadline of October 1, 2013 is merely a notification deadline to inform your employees that the Exchanges are open October 1, and to give them some relevant information about what insurance coverage your business does, or does not provide. Actually, there isn't any fine or penalty for failure to provide the Marketplace Notice. However, we encourage all employers to comply with the Notice provisions, at a minimum, in order to comply with FLSA requirements and also to possibly avoid future problems.

We suggest using the following contacts for help and assistance:

- Your insurance advisor, broker or consultant.
- [www.abrix.com](http://www.abrix.com). Our website has both articles and links to various sites about ACA. Or talk to your consultant here at Abrix about this.
- [www.healthcare.gov](http://www.healthcare.gov). There is extensive information on this site about all provisions of the ACA, including this topic.
- [www.sba.gov/healthcare](http://www.sba.gov/healthcare). This is the site of the U.S. Small Business Administration and has a lot of information on ACA, including separate links to information of the effects and requirements of ACA on your business, according to its size.
- [www.hhs.gov/healthcare/facts/timeline/timeline-text.html](http://www.hhs.gov/healthcare/facts/timeline/timeline-text.html). Health and Human Services website showing the entire timeline of ACA with embedded links to further explanations of each provision.