Today's Agenda

- The Affordable Care Act (ACA)
  - Review of 2015
  - Measurements
  - Reporting
- Subsidy Notices & Appeals
  - What are they
  - Should you appeal?
- Coming for 2016
  - New Codes
  - New Forms
  - Changes in the rules
Affordable Care Act (ACA)

- **INDIVIDUAL MANDATE**
  - This requires that most individuals have qualifying healthcare coverage, for each month of the year (with a few exceptions) or pay a penalty.

<table>
<thead>
<tr>
<th>Plan A</th>
<th>Plan B</th>
<th>Plan C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Premium</td>
<td>Annual Premium</td>
<td>Annual Premium</td>
</tr>
<tr>
<td>$2,000</td>
<td>$3,000</td>
<td>$4,000</td>
</tr>
<tr>
<td>$2,080</td>
<td>$3,120</td>
<td>$4,160</td>
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<tr>
<td>$2,160</td>
<td>$3,240</td>
<td>$4,320</td>
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</tbody>
</table>

**Year** | **Penalty A** | **Penalty B**
---|---|---
2014 (no penalties apply) | $2,000 | $3,000
2015 (no penalties for 50-99 if certain criteria met) | $2,080 | $3,120
2016 | $2,160 | $3,240

**Penalty A**
- ALE's that do not offer Minimum Essential Coverage to substantially all (95%) FTE's employees & children to age 26.
  - *was 70% in 2015*.
  - Penalties triggered by at least 1 FTE who is not offered coverage and they enroll in subsidized exchange coverage.
  - Penalty is 1/12th of $2,160 per month ($180) X all FTEs.
  - Excluding first 30 FTEs (was 80 in 2016).
  - Example: You have 200 employees and 170 of them are FT.
    - 170 x 95% = 161.5 (round down) If you fail to offer coverage to at least 161 of those employees your penalty would be $2,160 X 140 (170 - 30) = $302,400 DOLLARS.
Penalty B

- All’s who fail to offer coverage that is affordable* or meets Minimum Value (60%)
- Penalties are triggered when
  - at least 1 FT employee’s coverage is unaffordable and they enroll in subsidized exchange coverage.
  - Or your plan doesn’t provide minimum value and they enrolled in subsidized exchange coverage.
- Penalty is 1/12th of $3,240 per month ($270) per employee who receives a subsidy or other cost sharing reductions through the state exchange.
- Example: Two employees couldn’t afford your insurance, went to the exchange and received a subsidy for the entire year. Your penalty would be $3,240 x 2.

Affordability

- The premiums you charge your employees for your health insurance coverage has to be affordable.
- What does that mean? A percentage of THEIR household income.
- Employers may not know household income – Safe Harbors apply:
  - W2 Safe Harbor
  - Rate of Pay Safe Harbor
  - Federal Poverty Level

<table>
<thead>
<tr>
<th>Year</th>
<th>Annual Income</th>
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<tbody>
<tr>
<td>2014</td>
<td>$11,670</td>
</tr>
<tr>
<td>2015</td>
<td>$11,770</td>
</tr>
<tr>
<td>2016</td>
<td>$11,880</td>
</tr>
<tr>
<td>2017</td>
<td>$11,980</td>
</tr>
</tbody>
</table>

- Did you know? If you REQUIRE employees to take your health insurance it has to be affordable under the FPL safe harbor.

Reporting

- 1095C / 1094C
- 1095B / 1094B

<table>
<thead>
<tr>
<th>1095C / 1094C</th>
<th>1095B / 1094B</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALE – 1095C Form to EE</td>
<td>Health insurer entities</td>
</tr>
<tr>
<td>Fully Insured – Parts I &amp; II</td>
<td>SELF Insured plans (Under 50 FTEs)</td>
</tr>
<tr>
<td>Self Insured – Parts I &amp; II</td>
<td>Fully Insured Plans</td>
</tr>
<tr>
<td>1094C Form – IRS Transmittal</td>
<td>1094B Form – IRS Transmittal</td>
</tr>
<tr>
<td>Lots of codes for: Offer of insurance Safe Harbors Transition Relief</td>
<td>Data that showed coverage dates of individuals and their TIN/DOB (for individual mandate)</td>
</tr>
</tbody>
</table>
Issues that created chaos

- IRS final instructions & forms – late September
- Payroll Vendors, Stand Alone companies –
  - NO ONE HAD DONE THIS BEFORE!
- Education lacking – **vocabulary hard to understand and apply**
  - Measurements –
    - Standard Measurement Period vs Initial Measurement Period
    - Stability Period vs Initial Stability period
    - Administrative Period
- Change of Status??
  - FT to PT
  - PT to FT

**Bigger ISSUE:** Employers couldn’t gather the data required!
- In too many places, without an easy way to grab it in one report

2015 – Oh what a wonderful time!

Where is the data?? Who has the data?? Wait... what data do I need??

- Hours of **SERVICE** not Hours WORKED (FMLA, military, disability, jury duty)
- IRS extended the time to furnish and file 1095s and 1094s for the 2015 reporting
  - Employers still had issues meeting new deadlines
  - IRS AIR program – mucho trouble

- Still dealing with 2015 now
  - IRS transmittals may not be complete (accepted with errors)
  - May not get them done on time due to AIR issues

Connecting the Dots

- Vermont Health Connect
  - Big issues with employers getting enrolled to offer plans
  - Direct to carrier STILL
    - Is Vermont moving to **healthcare.gov** – Not sure

- No Notifications from Vermont Health Connect
  - Employees were going to the exchange as individuals, getting subsidies and employers weren’t alerted.
  - Now... Subsidy Appeal Notices are coming
Subsidy Appeal Notices

Individuals must have minimum essential coverage for each month (with a few exceptions) or pay a penalty

- State and Federal exchanges will make subsidies available to qualified individuals.
- A Qualified individual means that they have no offer of affordable, minimum value, minimum essential coverage from an employer sponsored plan.

- How does exchange know if the employee had/have an offer?
  - They ask them!
  - They give inaccurate or incomplete info to exchange, get a subsidy - no verification process at that time.

- Now, Subsidy Appeal Notices coming from VT Health Connect

### Subsidy Appeal Notices

- This information comes from the Health Exchanges, or CMS or HHS, depending on the state.
- Vermont is sending their own notices. Other states may be utilizing CMS or HHS (healthcare.gov)
- WATCH your MAIL carefully! Non descriptive envelopes going to the address the employee is indicating on their exchange application form.

- SAMPLE LETTER

### SAMPLE LETTER

**https://www.healthcare.gov/marketplace** appeals/employer-appeals/
Appeals – you get ONE shot!

- You have 90 days to appeal via the website
- You only get one chance to appeal
- EE gets a chance to appeal after you
- Once decision is made – it is final.
- IRS has nothing to do with these appeals and therefore you may get a notice from them as well indicating you owe a penalty.
- DOCUMENTATION!! – Audits could happen YEARS after

Appeal or Not?

- In general, employers should consider appealing if they believe the employee’s receipt of a subsidy is in error. For example:
  - if the employer believes that the employee was offered affordable, minimum value coverage, or the employee is actually enrolled in the employer’s plan and thus, in either case, is ineligible for a subsidy.
  - Employers do not need to appeal subsidy notifications received for part-time employees (unless the notice inaccurately identifies them as full-time employees), employees who terminated while in a waiting period for coverage, or notifications naming spouses or family members as recipients of a subsidy.

If the person identified is a full time employee and you offered coverage, and that coverage was affordable, **APPEAL!!**

Let’s look at a few examples

- Harry worked 25 hours per week for your organisation
- No offer of coverage made
- On his application to the exchange he indicated he was a full time employee
- Harry got a subsidy
- Should you appeal?

**APPEAL!!**
EXAMPLE

- Sally worked full time, you offered her coverage and she declined to enroll
- On her application she stated she was a full time employee but had no offer of coverage
- Sally got a subsidy
- Appeal?

APPEAL!!

EXAMPLE

- Susan is a part time employee, no offer of coverage
- On her application she stated she wasn't full time and had no offer of coverage
- She received a subsidy
- Appeal?

Not necessary
To appeal
It's correct

Documentation - Audits

- Remember you may have to prove you made an offer
- Remember you need accurate records of HOURS of SERVICE
- Remember you may need these records going from now
- Keep records of appeal notices and your responses
- Remember we get to do this again, and again, and again....
2016 – review of changes

Graphics from Paylocity

2016 NEW

- New DRAFT FORMS AND INSTRUCTIONS
  - 1095C and 1094C
  - 1094C/1095C Instructions
- New Codes for Line 14 on 1095C
  - 1J and 1K - Spousal Coverages – Conditional or Unconditional (page 11 in instructions)
- Removal of some codes

It is September already!!

- Have you started
  - Reviewing if you made an offer of coverage to at least 95% of FT employees?
  - Have you reviewed your affordability based on the new safe harbor amounts?
  - Are you working with your payroll provider or a stand alone vendor to keep on top of changes?
- Do you have the data?
Hang On – More to Come!!

Thank You!

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