AFFORDABLE CARE ACT

AUGUST 2013 UPDATE

The Affordable Care Act ("ACA") is providing challenges to employers throughout the country. Associated Administrators, LLC is no different; our company and our Fund clients are facing new questions every day. This update on the ACA provides information about the key items that have already been completed under ACA, the challenges ahead, and some thoughts about how the ACA and multiemployer plans differ.

1. ACA ITEMS ALREADY COMPLETED

Since the passage of the ACA in 2010, plan sponsors and administrators have been working towards meeting the new requirements. A few of the areas that have already been completed:

- ***Age 26 rule*** - the maximum age for dependents was raised to 26.
- ***Benefit Maximums*** - lifetime maximums were eliminated, and annual caps on benefits are eliminated as of 1/1/14.
- ***Grandfathered plans.***
    - Non-grandfathering required new preventive care benefits and appeal rights among the changes.
- ***Summary of Benefits and Coverage ("SBCs")*** – first plan year beginning after 9/23/12.
    - Must be given out during any enrollment opportunity.
    - Must be available 30 days prior to the start of a plan year.
- ***Patient-Centered Outcomes Research Fee ("PCORI")*** - $1/participant was due on 7/31/13. The fee increases to $2 for 2014 and will be adjusted annually. The fee is set to sunset after the 2018 plan year (due 7/31/19).

2. IMMEDIATE FUTURE ITEMS

Now through 2014, there are some major milestones that occur within ACA:

- ***Exchanges ("marketplace") open 10/1/13, for coverage available 1/1/14.***
    - Employers are required to send a letter to employees telling them of availability of exchanges, potential availability of tax credits, and if the employer is providing adequate ("minimum essential coverage") and affordable (9.5% test) coverage.
        - DOL has issued 2 templates, one for employers offering coverage and one for those not offering coverage.
        - Employers are also required to send the notice to new employees within 14 days of their start date.
        - 10/1/13 deadline.
        - This also impacts COBRA notice - new draft language provided by DOL.

- ***Premium Assistance Tax Credit Eligibility*** – only available if adequate and affordable employer coverage is not available.
    - Only available for individual market coverage on the Exchange.
    - Available to individuals with between 100% and 400% of federal poverty line. Phases out as household income increases.
    - No tax credits to buy dependent coverage if employer offers unaffordable dependent coverage.

- ***Waiting periods over 90 days are prohibited effective 1/1/14.***
    - If employee is "variable hour employee" waiting period could be as long as 13 months. (This applies to part-timers with hours-based eligibility requirement.)

- ***Employer Shared Responsibility Penalty ("pay or play" rule)*** – delayed until 2015.
    - Applies to large employers (50+ FTE).
    - 2 types of penalties:
        - Employer does not offer minimum essential coverage to at least 95% of FTEs and 1 employee receives a subsidy, penalty is $2,000 x (total of FTEs minus 30).
        - Employer offers minimum essential coverage that is not affordable (> 9.5% of household income) or does not meet minimum value (60/40 plan) and at least 1 employee receives a subsidy, penalty is $3,000 per FTE receiving a subsidy. Affordability is based on self-only coverage and employee's income only; dependent coverage can be unaffordable with no employer penalty. Definition of dependent does not include spouse.

- ***Individual mandate & elimination of pre-existing condition limitations*** – 1/1/14.

- ***W-2 reporting on the value of employer-sponsored coverage for 2013*** – due January 2014. (Does not apply to multiemployer plans for now.)

- ***HIPAA 5010 and ICD-10*** – Claim payers must be compliant by October 1, 2014.
    - HIPAA 5010 requirements update the standards for electronic transactions (including claims). More than 800 changes are needed to transition from the current 4010 to 5010.
    - The International Classification of Diseases, 10th Edition ("ICD-10") is the update of sign and symptom codes developed by the World Health Organization and used by physicians and health care professionals to report diagnoses and procedures.
        - The current ICD-9 system has 13,000 diagnosis codes and 3,000 procedure codes; ICD-10 has 68,000 diagnosis codes and 87,000 procedure codes.
        - ICD-9 codes have three or four digits; ICD-10 has seven.

3. 2015 AND BEYOND

More fees and regulations will impact employers in 2015 and beyond:

- ***Maximum out-of-pocket cost ($6,350 / $12,700)*** – delayed for group plans until 1/1/15.

- ***Reinsurance "contribution" to stabilize market*** – plan years 2014-2016
  - 2014 fee is $63 for each covered life, adjusted annually.
  - Plans must submit enrollment count by 11/15/14, invoice by government in December 2014, and payment due January 2015.
  - Calculated based on average number of covered lives, including dependents (children under age 26).
  - Excludes retirees enrolled in Medicare.

- ***Health insurance provider fee of 2%*** - permanent fee – begins in 2014.
  - Includes HMOs and fully-insured plans.
  - Does not include self-insured employers.

- ***Auto-enrollment of new hires*** – sometime after 2014.

- ***"Cadillac Tax"*** - beginning in 2018, a 40% excise tax on the value of health insurance benefits exceeding the threshold.
  - $10,200 for single coverage, $27,500 for family coverage, indexed.
  - Multiemployer plans considered family plans.
  - High risk professions, including construction, adjusted upwards.
  - Plan administrator will be responsible on self-insured plans.

4. MULTI-EMPLOYER TRANSITION RULE

- ***IRS Transition Rule - through 2014, a large employer that makes contributions to a multiemployer plan would not owe a penalty for a full time employee if:***
  - The employer is required to contribute to the plan with respect to that employee due to a Collective Bargaining Agreement or Participation Agreement;
  - Coverage is offered by the plan to the full time employee and their dependent children under age 26; and
  - The coverage offered to full time employees is affordable and provides minimum value.

Note: This summary is not meant to be a comprehensive description of the Affordable Care Act ("ACA") and only hits on points that could impact our Fund clients. The rules are being defined daily. We expect quite a few new regulations and advisories to be issued in the Fall of 2013 and we will keep everyone informed as much as possible. This summary should not be construed as advice and Fund Counsel should be contacted for specific questions.