

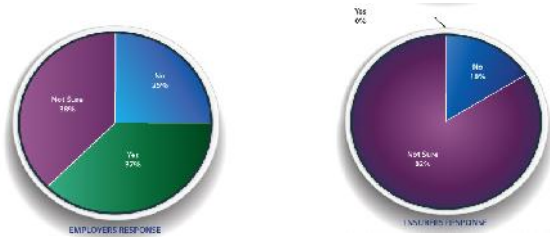
February 2015



PPACA Today ...

For tomorrow it may be different!

Great Expectations



Is the insurer going to submit ACA Reporting?

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Who is Responsible?

- Ultimately it is always the employer!
- Even IF there are contracts with TPA's.
- Record keeping systems may need updating.
- Info is required for 5 years minimum.
- "Packages" and documented delivery needs to be the "norm".
- Work with vendors for collection and retention.

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Fear of Audits

U.S. Department of Labor

Employee Benefits Security Administration
2300 Main Street, Suite 1100
Kansas City, MO 64108-2415
Phone: (816) 785-1800
Fax: (816) 785-1888



JAN 03 2014

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

RE: [REDACTED]
EIN/EN: [REDACTED]
EOP, Case No.: [REDACTED]

Dear Mr. [REDACTED]:

The U.S. Department of Labor, Employee Benefits Security Administration (EBSA), has responsibility for administration and enforcement of Title I of the Employee Retirement Income Security Act of 1974 (ERISA). Title I establishes standards governing the operation of employee benefit plans such as the [REDACTED]

Their Authority

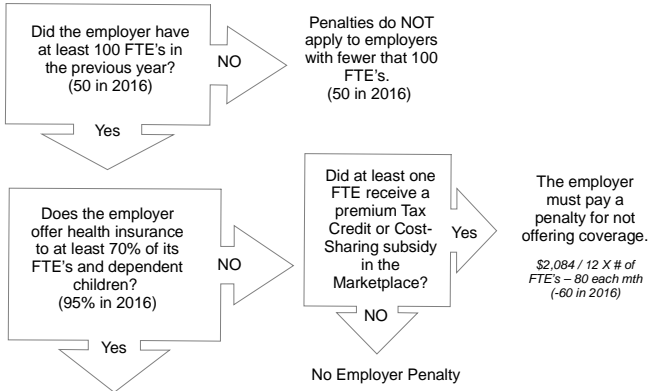
The Plan has been selected for an examination by this office. Investigative authority is vested in the Secretary of Labor by section 504 of ERISA, 29 U.S.C. 1134, which states in part:

"The Secretary shall have the power, in order to determine whether any person has violated or is about to violate any provisions of this title or any regulations or order thereunder, to make an investigation, and in connection therewith to require the submission of reports, books, and records, and the filing of data in support of any information required to be filed with the Secretary..."

- Under ERISA because parts are "pre-tax".
- That gets expanded to the entire plan.

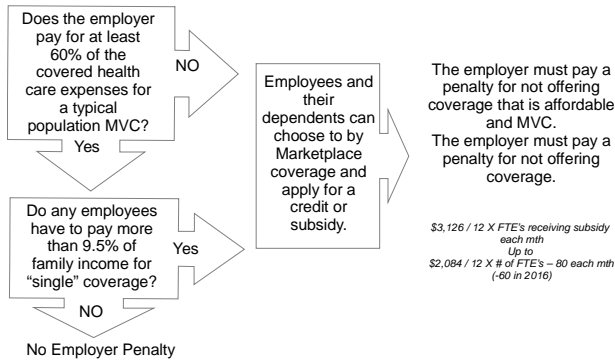
This is even **BEFORE** PPACA

About those penalties ...



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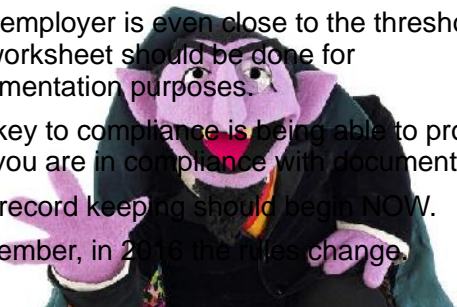
If employer offers health insurance to at least 70% of its FTE's



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The Count

- We have a worksheet for this purpose.
- If an employer is even close to the thresholds, the worksheet should be done for documentation purposes.
- The key to compliance is being able to prove that you are in compliance with documents.
- This record keeping should begin NOW.
- Remember, in 2016 the rules change.



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Section 6055 and 6056 1095-c and 1094-c

- Required for 50+ employee companies.
- Headcount not participation.
- Content of forms should be reviewed now so record keeping can be affirmed.
- Deadline is similar to W-2's in January of 2016.
- Reporting is for Calendar 2015.
- Don't be fooled by fear ...

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Self Funded Challenges

- Identifying and collecting the required information. (Talk to the TPA about what they will / can do with regard to data collection.)
- Make sure the balance of the list is on someone's task list and "inspect what you expect".
- Communicate with employees regarding their tax return responsibilities with the 1095-c.
- The employer is responsible for reporting for both the insurer AND the employer.

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Section 6055 and 6056

- 6055 – Employer reporting
 - 1094-c Consolidated Company Report
 - 1095-c Individual Report
- 6056 – Insurer reporting
 - Minimum Value Calculation
 - Plan design compliance

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9.5% Safe Harbors

- Employers may not know the “family income” for the affordability calculation.
- 3 “Safe Harbors”
 - W-2 Wages
 - Rate of Pay
 - Federal Poverty Line
- Available ONLY if MVC is satisfied ... 60%

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4 C's of PPACA Compliance

- **Conformity** of all records including Carrier invoices, COBRA activity and Compensation / Payroll records.
- Make sure to offer and maintain **Coverage** to those who are eligible.
- Make sure to treat new hires **Correctly**.
- Make sure to **Count** employees in accordance with the instructions for form 1094-C (even though they are still in draft form).

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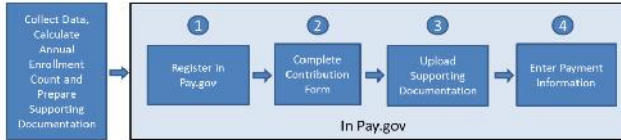
PCORI Fees and Filing

- Must be filed annually on Form 720.
- \$2.08 per employee for Plan Years Ending After Sept. 30, 2014 and before Oct. 1, 2015.
- Must be paid by the issuer of the policy.
- Average headcount or actual headcount may be used for calculation.
- PCORI expires for all Plan Years that end after Oct. 1 2019.
- Overpayments are not credited to the next year.

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Submit and Pay w/ [Pay.gov](https://www.pay.gov)

- A contributing entity completes all of the following steps:



Marketplace Letters

- Due within 14 days of start date.
- Mailed to ALL employees Full and Part Time.
- 1st Class postage, imaged, and proof of mailing.
- 4 different letter templates.
- Only mailed one time for each employee.
- Must be mailed, e-mail rules are 16 pages long.
- For beneficiaries so handing it out is invalid.

Medicare Part D Letters

- Due October 15 each year.
- Employees that are eligible for Medicare that are on the group plan ... or not.
- COBRA changes Medicare Coverage.
- Medicare group rates are not available.
- Medicare is primary for COBRA.
- Group plan is primary for those Active at Work.
- Letters 1st class, imaged, proof of mailing.

COBRA / State Continuation

- Federal COBRA
 - 20 or more employees for more than half of the previous calendar year work days.
 - General Notices within 90 days of eligibility.
- State Continuation
 - DC remains 90 days.
 - MD is 18 months with divorce (forever).
 - VA is now mandatory offering of 12 months.

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HIPAA Enrollment Rights

- HIPAA / CHIP form may be combined.
- Required communication for all employees.
- Form provides proof of communication but the form itself is NOT required.
- Can be placed in New Hire Packet.

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Section 125

- Most payroll systems setup group plan deductions pre-tax automatically.
- Each deduction, (pre-tax or post tax) must be specifically authorized in writing.
- Pre-tax deductions can only be valid if done under a current Plan Document, SPD and Enrollment Form.
- Under ERISA, the election can only be for 1 year at a time.

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125 Testing

- Testing is not required.
- Passing the tests ARE required.
- Groups that fail typically have a high percentage of HCE's (often w/ family coverage)
- Failing the tests in an audit can result in a 4 year penalty of tax returns and taxes.

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Annual Notice of Women's Health and Cancer Rights Act

- Usually part of the Open Enrollment Package.
- Ask Carrier to provide or download for distribution.
- File with the rest of the Open Enrollment Kit.
- Have the brochure available and add to the New Hire packet.

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Over 100 Participants = 5500

- 5500's are required for ERISA plans with more than 100 participants.
- Premium Only Plans are ERISA Plans.
- So are 401(k) Plans.
- Wrap Documents are NOT required but may be cost effective if 3 or more 5500's are being prepared.
- Only one (1) 5500 is needed if a Wrap Document is prepared.

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Summary of Service Agreements

- There are many vendors that work behind the scenes in handling this data.
- Make sure that the data you need for filing is available now.
- Get a clear view of where ALL the information will be if you choose the change vendors.
- Ask about retention and access rules for your data and whether or not it is downloadable or exportable.

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SBC's & Other Documents

- Corporate Minutes related to "The Plan".
- Written Open Enrollment kits.
- Images of Enrollment Forms / Waivers.
- Payroll deduction history.
- Invoices for "The Plan".
- Payment and Reconciliation Records.
- Claims History (Self Funded).
- MLR reconciliation and distributions.

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Even **pre-PPACA**

- Pre-Ex Notifications.
- Credible Coverage Certificates (Prior to January 2015).
- Plan Procedures for Enrollment and "Dis-enrollment".
- Special Enrollment Procedures.
- Wellness Program Summary of Compliance.

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