Health care reform is complicated. And much of the information that claims to explain health care reform is even more complicated. OneDigital Health and Benefits has created this handbook to provide you with a clear, concise overview of what you, as an employer, need to know to survive ... and thrive ... in a post-health care reform world.
Health care reform became law in 2010. At its onset, federal agencies were tasked with the regulatory authority to draft the specific rules necessary to implement all the components of the law. The initial framework detailed a timeline and sequencing of the major components of the law. Many rules have been defined, released and implemented. Others are still in development.

This handbook provides some basic information, along with questions and answers, to help you better understand health care reform and the most recent agency regulations. We have designed the handbook as a quick reference for you to prepare your company for the challenges health care reform presents.

Keep in mind that health care reform and its flood of accompanying regulations are in a near-constant state of flux. So, while the information here is a valuable starting point, we recommend you contact your OneDigital Health and Benefits consultant regularly to access the latest health care reform guidance you will need to make sure you — and your employees — have the details you need to comply with health care reform.
HEALTH CARE REFORM COMPLIANCE FOR 2017 AND BEYOND

Determining applicable large employer status
- **Company structure** — Include employees of all entities in same IRS controlled group
- **Employee classification** — Include all common law employees whether full-time, part-time or seasonal; exclude only those independent contractors who truly are independent
- **Re-evaluate annually** — the calculation is based on the prior calendar year

Assessing whether or not to offer group health coverage
- **Non-cost factors** — Don’t forget to consider industry standards, competitive disadvantage, employee retention, employee expectations, employee morale and employee productivity

Preparing required employer reports and employee statements
- **Large employer reporting** — All employers with 50+ full-time employees and full-time equivalents, who have transition relief from mandated coverage must file reports for 2017
- **Self-insured plan sponsor reporting** — Regardless of size, self-insured sponsors must report starting in 2017
- **Logistics** — Generally, due by February 28 following reporting year (March 31, if electronically filed); must file electronically if producing more than 250 W-2’s; individual statements due by January 31 following reporting year

Paying PCORI fees
- **Calculating** — $2.17 per covered individual if plan year ended between January 1, 2016 and September 30, 2016; $2.26 per covered individual if plan year ended between October 1, 2016 and December 31, 2016
- **Paying** — Self-insured (including HRA sponsors) submit Form 720 and payment to IRS by July 31, 2017

Monitoring proper plan design
- **Required elements** — Dependent children covered through the month they turn 26, no pre-existing condition exclusions, no annual or lifetime limits, no rescission but for fraud, preventive services covered at 100% (unless grandfathered), activity and outcomes-based wellness programs must offer reasonable alternative for incentives; one out-of-pocket maximum including all deductibles and co-payments (including prescription drug co-payments)
- **Grandfathered status** — Provide annual notice of grandfathered status with enrollment materials and in plan document

Notifying employees about the Marketplace
Notice still required to each new hire within 14 days of start date

Tracking variable-hour employees
- **Measurement periods** — Track all variable hour employees; new hire measurement and administrative periods cannot exceed 13 months from hire date
- **Equivalencies** (non-hourly employees for which no hours have been tracked) — Can credit employees for eight hours per day or 40 hours per week as long as the employee earns at least one hour of service in the period — cannot use equivalency to understate actual hours

Ensuring Summary of Benefits and Coverage distributed
- **Content** — Follow DOL template
- **Distribution** — Employers and plan sponsors must issue with annual enrollment materials, within 90 days to anyone who enrolls during special enrollment period and within seven days of employee request; coordinate with carrier if carrier will distribute
Large Employer Mandate/Applicable Large Employer

Employers with at least 50 full-time employees (and full-time equivalents) must offer group health coverage to at least 95% of their full-time employees and their dependent children up to age 26 (including month in which they turn 26) or pay a penalty equal to $2,260 per full-time employee, minus 30 employees, if at least one employee gets subsidized coverage on the Marketplace. The ACA refers to these employers as Applicable Large Employers, or ALEs.

Employers who offer coverage that has a lowest-cost single-only option that either costs more than 9.5% (adjusted annually – 9.66% for 2016 plan years and 9.69% for 2017 plan years) of employer’s chosen safe harbor (e.g. employee’s W-2 wages, monthly or hourly rate of pay, or applicable federal poverty line amount/FPL) or does not provide at least 60% minimum value, must pay $3,290 per full-time employee who gets subsidized coverage on the Marketplace. This penalty is capped at the total amount of penalty assessable had the employer not offered coverage at all.

Final guidance gives employers with between 50 and 99 full-time employees (and full-time equivalents) until first day of plan year starting on or after January 1, 2016 to comply with the large employer mandate, but only if employer, after February 9, 2014:

- Did not impermissibly reduce workforce to below 100 prior to December 31, 2014
- Maintains coverage offered as of February 9, 2014, and:  
  - Contributes at least 95% of the dollar amount it contributed as of that date or a same or higher percentage of the cost of coverage as of that date
  - Makes no changes to employee-only coverage that result in that coverage not meeting minimum value standards
  - Does not narrow or reduce the class or classes of employees (or their dependents) to whom they offer coverage
- Does not change its plan year start date to begin at a later date
- Certifies that it is eligible for transition relief on Form 1094-C

Employer Reporting Requirements

For 2017 calendar year, all large employers (50 or more full-time or full-time equivalent employees) must file Forms 1094-C and 1095-C with IRS and issue individual statements (generally copies of Form 1095-C) to employees regarding their group health plans. Self-insured employer plan sponsors with fewer than 50 full-time employees and full-time equivalent employees must submit Forms 1094-B and 1095-B and issue individual statements. Both reports will be due by February 28, 2018 (March 31 if filed electronically, which employer must do if it issues at least 250 employee statements).

Applicable Large Employers will need to include the following information:

- Employer Identification Number (EIN), name and address
- Name and phone number for employer contact
- Calendar year being reported
- Statement that employer offered minimum essential coverage and for which months
- Full-time employee census by month
- Employee taxpayer identification numbers (TIN), name and address
- Months participant was offered coverage
- Months participant had coverage
- Employees share of lowest monthly self-only coverage that offers plan of 60% minimum value

Self-insured employer plan sponsors must submit the following information:

- Employer EIN, name and address
- Participant (employee, retiree, dependent, qualified beneficiary) TIN, name and address
- Months each individual covered

All large employers must furnish employees with individual statements that match the employer reports, typically copies of each individual employee’s 1095-C. These individual employee statements are generally due no later than January 31 following the calendar year being reported and may be provided with their W-2s.

Employers can file streamlined reports if they offered coverage to one or more full-time employees for all months of coverage year, coverage met minimum value standard and cost no more than 9.69% of applicable mainland federal poverty line amount, and they offered coverage to spouses and dependent children to age 26.
FREQUENTLY ASKED QUESTIONS
Q. What is a full-time employee under health care reform?

A. Full-time means an employee averaging 30 hours or more of service per week. Service hours include any time for which an employee is paid or is eligible for pay, e.g. vacation, sick time, PTO, disability, etc. Although there continues to be legislative activity and interest to change this definition to 40 hours, the current definition remains.

Q. I typically employ fewer than 50 individuals, but I hire seasonal workers at certain times during the year. Am I an applicable large employer?

A. If you exceed 50 full-time and full-time equivalent employees for no more than four months during the year, and you exceed 50 during those months due solely to seasonal employees, you are not an applicable large employer.

Q. What is a seasonal employee under health care reform?

A. A seasonal employee must work fewer than six months for you and must be hired for what is traditionally and reasonably a seasonal period (e.g., holiday shopping period, summer, ski season, etc.)

Q. I am an applicable large employer, but I qualify for transition relief. Must I still file employer reports and issue individual statements for the 2016 calendar year?

A. Until further guidance, even employers who qualify for transition relief from large employer mandate still must file employer reports and furnish employee statements for the 2016 calendar year 2017.

Q. Do I need to issue Marketplace Notifications to employees?

A. You must provide a Marketplace Notification to each new hire within 14 days of his/her first day of employment. You can use Part I of the United States DOL template Notification or prepare your own Notification as long as it alerts employees of the existence of the Marketplace (including contact information), and it tells employees they will lose their contribution to their group health plan if they elect Marketplace coverage, but they might qualify for federal assistance to pay for Marketplace coverage.
Q. Can I impose a waiting period under my group health plan?
A. Yes, but you cannot draft your plan to have a waiting period of more than 90 days. It is okay to have an initiation or trial period of employment of up to one month and then impose a 90-day waiting period for plan eligibility. Similarly, you can impose an hours-of-service requirement of up to 1,200 hours as a benefits eligibility condition before starting your plan’s 90-day waiting period.

Q. Must individuals buy health insurance?
A. Yes, unless an individual qualifies for a limited exemption under health care reform or files for a hardship exemption, he must obtain health insurance or pay a penalty. For 2016, penalties are greater of $695 ($347.50 for dependent children), capped at $2,085 for family; or 2.5% of income above applicable income tax filing threshold.

Q. Marketplace open enrollment is closed; can an individual still get Marketplace coverage?
A. Not unless an individual has a change in status (e.g., job termination, marriage, birth of child, etc.) that qualifies him for a special enrollment period under Marketplace rules. Additionally, and new for 2016, is the ability for an individual to enroll after the marketplace closes for employees of employers who have non-calendar year plan renewals.

Q. My plan is insured, but I have a self-insured HRA that I offer with the plan. Must I file and pay PCORI fees?
A. Yes, even though your carrier will file and pay on the underlying group plan, you must file and pay on your HRA participants.

Q. I sponsor a self-insured group health plan with a HRA. Must I file and pay two PCORI fees for individuals who participate in both?
A. No, you do not need to pay twice on any individual.

Q. Can I get tax credits for providing group health insurance?
A. Yes, if you are a small employer (fewer than 25 full-time equivalent employees and an average annual payroll of less than $50,800), you pay at least 50% of the premium for self-only coverage, and you get group coverage through the SHOP Marketplace, you may qualify for a small business health care tax credit. If so, you can claim up to 50% of premiums (35% for tax-exempt businesses) and file Form 8941 with IRS.

**IRS Tax Credit Worksheet**

**STEP 1**
Determine the total number of your employees (not counting owners or family members)

# [ ] full-time employees (number of employees who work at least 40 hours per week)

± [ ] add the number of full-time equivalent (calculate the number of full-time equivalents by dividing the total annual hours of part-time employees by 2,080)

= [ ] total employees (rounded down to the next lowest whole number)

If your total employee count is less than 25 go to step 2

**STEP 2**
Calculate the average annual wages of employees (not counting owners or family members)

$ [ ] total annual wages you pay to employees

÷ [ ] divide it by the number of total employees from STEP 1

= [ ] average employee wages

**YES** [ ] NO Are your average employee wages less than $50,800?

**YES** [ ] NO Do you pay at least half of the insurance premium for your employees at the single (employee only) coverage rate?

**YES** [ ] NO Did you purchase coverage for your employees through a SHOP Marketplace?

If you said “YES” to all of the above, you may be able to claim the credit.
Note: This handbook is based on a general review of widely available sources and does not represent legal advice. PPACA changes occur frequently and may not be reflected in this handbook. Up-to-date reform modifications can be found here: http://www.digitalinsurance.com/health-care-reform-resource.php (Revised 9/2016)

REFORMS TIMELINE

2017

January 1, 2017 — Employer-shared responsibility penalties increased to $2,260 and $3,290, respectively

January 1, 2017 — All employers averaging 50 or more full-time and full-time equivalent employees during the calendar year of 2016 must offer 95% of full-time employees and dependent children (up to age 26) group health coverage or face penalties, unless non-calendar year plan qualifies for transition relief until 2017 renewal date

January 1, 2017 — Applicable large employers are required to offer affordable health plans to employees to avoid penalties. For plan years on or after January 1, 2017, the affordability safe harbor is 9.69% (9.66% in 2016). This means that a plan is considered affordable if the employee’s contribution toward the employee-only premium does not exceed 9.69% of compensation

February 28, 2017 — Due date for hardcopy IRS reports from large employers and self-funded plan sponsors; cannot file hardcopy reports (must file electronic reports) if employer must issue more than 250 individual statements

March 2, 2017 — Large employer and self-funded plan sponsor individual reporting statements due to employees

March 31, 2017 — Due date for electronic IRS reports from large employers and self-funded plan sponsors (required if issuing more than 250 individual statements)

2020

January 1, 2020 — First day of tax years to which 40% “Cadillac Tax” will apply to group health plans with value of $10,200 for individual coverage or $27,500 for family coverage (estimated thresholds at this time)
EXPERIENCED MARKET ADVISORS

ERICA CORDOVA
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Erica Cordova has experience practicing employee benefits law and employment law, serving clients with a variety of employment-related issues, including health and welfare employee benefits, employment discrimination and harassment, employment contracts, and employer communications. She is also experienced with federal employee benefits laws, and has advised clients on compliance with:

- Patient Protection and Affordable Care Act (PPACA);
- Employee Retirement Income Security Act of 1974 (ERISA);
- Health Insurance Portability and Accountability Act (HIPAA);
- Consolidated Omnibus Budget Reconciliation Act (COBRA); and
- Various other laws relating to health and welfare benefit plans.

Prior to joining OneDigital, Erica spent several years advising employers regarding employee benefit compliance obligations and drafting welfare plan documents. In that time, she gained an expertise in the technical requirements of employer sponsored health and welfare plans. She has also practiced employment law, serving clients with a variety of employment-related concerns, including employment discrimination, employment agreements, and workers’ compensation.

Erica received a Juris Doctor from the University of Florida Levin College of Law and a Bachelor of Arts in Political Science from Georgia State University. Erica is a member of the Georgia Bar Association, Georgia Bar Association Employee Benefits Section, ABA Employee Benefits Section, American Benefits Council, and CIAB Legal Counsel Working Group.

ANNETTE BECHTOLD
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As senior vice president of regulatory affairs and reform initiatives, Annette is responsible for health care reform initiatives and strategic development at OneDigital. She advises, educates and supports OneDigital’s overall corporate tactics and client support issues. She joined OneDigital in 2005 as vice president of operations and was later promoted to senior vice president of operations and strategic development before taking on her current role.

Prior to joining OneDigital, Annette held sales and operations management positions with Member Insurance Agency in Georgia, as well as John Hancock Mutual Life Insurance in Illinois. She was named “Employee Benefit Adviser of the Year” by Employee Benefit Adviser magazine in 2010.

A graduate of the University of Illinois Champaign-Urbana, Annette earned a bachelor’s degree in finance, specializing in insurance and risk management. She’s a certified insurance counselor (CIC) and a Chartered Healthcare Consultant (ChHC). Annette is licensed in life, health, property and casualty and is the immediate past president of the Atlanta Association of Health Underwriters (AAHU), president-elect of the Georgia Association of Health Underwriters (GAHU), and vice chair of the legislative council for the National Association of Health Underwriters (NAHU).
Our team of compliance experts is ready to assist you.

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