

IMPACT OF ACA (OBAMACARE) ON SMALL BUSINESSES

Small businesses are touted as one of the biggest beneficiaries of the Affordable Care Act (ACA) and yet there is still confusion for many small business owners on how they will be affected. Many of the provisions have been postponed or eliminated altogether which makes it difficult for the business owner to maintain an accurate employee benefit financial statement. Here we will take a look at some of the most common questions:

- What exactly constitutes a small business and which components will have the greatest impact on the owner and employees?
- If an owner already offers health insurance to employees, will the program need to be amended to incorporate ACA requirements?
- If there is no health insurance plan in place, are there provisions that would obligate a small business owner to set up a health insurance plan?

The ACA--or Obamacare as it is more commonly referred to--has been crafted to make healthcare benefits available to small businesses. ACA defines a small business as an entity with 50 or fewer full time equivalent employees. Any business that fits the small business definition under Obamacare will not be required to offer a health care benefit.

Should a business have more than 50 full time equivalent employees, it will be considered a large business, subject to the ACA regulations for large businesses and face IRS penalties for noncompliance. In determining whether a business fits the ACA's definition of a small business, it is important to note that full time equivalent includes individual full time employees (30 or more hours weekly) AND combined hours for part time employees (total number of part time employee weekly hours divided by 30).

Although health insurance is costly for any business owner, for businesses with fewer than 50 employees, it has likely been very expensive and in some cases cost prohibitive. The demographics of a small employee group could drive up the employer's price tag significantly and may have discouraged owners from offering a health insurance benefit in the past.

Among businesses with 40 to 70 employees, 59% of franchise and 52% of non-franchise businesses plan to make personnel changes to stay below the 50 full time equivalent employee threshold.²

For small businesses with under 25 employees, a study by the Kaiser Family Foundation found small business owners are in similar straits as their employees: one-quarter are uninsured and half rely on a family member for coverage or buy private health insurance, if they can afford and qualify for it. Only 19 percent get insurance through their companies.¹

Small Business Health Options Program

One of the most important provisions of the ACA is the establishment of the Small Business Health Options Program, also known as the SHOP exchange. This exchange will be separate from the health insurance exchanges for individuals and offer health insurance plans for businesses with 100 or less full time employees (note: some states may only offer SHOP plans to businesses with less than 50 employees). By purchasing insurance through a SHOP, a small business owner can become part of a larger risk pool. By not having to operate as a single entity with fewer employees, the greater diversity can help keep costs manageable. When the SHOPS are fully operational in 2015, a small business owner will have the opportunity to select from among a variety of plans.

Small Businesses with fewer than 25 employees

Obamacare also provides for additional tax benefits specifically for business owners with 25 or fewer full time equivalent employees who purchase health insurance through a SHOP exchange. The business owner must pay for at least 50% of their employees' premiums and the employees' average annual wages cannot be more than \$50,000 (inflation adjusted annually). The tax credit in 2014 is 50% of the employer paid portion. To qualify for this credit however, insurance must be purchased from the SHOP for at least two years. Tax credits can be claimed on an income tax return by filing IRS Form 8941-Credit for Small Employer Health Insurance Premiums and showing calculations for the credit. In states where the SHOP is not open in 2014, a qualified insurance plan may be obtained through an agent or other third party provider. The tax credit is still available provided it is considered an "equivalent" plan.

Many small business owners who once provided a health insurance benefit dropped this benefit over the last decade as a result of the ever increasing costs. However, there are small employers who continue to include health insurance in a benefit package to attract and retain talent. If an employer with fewer than 50 employees cannot afford to provide a health insurance plan, employees will have the opportunity to purchase insurance through their state's individual exchange. With the varying levels of coverage available and no denial of benefits for any reason, individuals select what they can afford to meet their needs.

Small Businesses with 50-100 employees

The employer mandate for businesses with 50-99 employees has been postponed until 2016. While the additional year does offer an extension, business owners are already in the process of contemplating the financial impact of this mandate. Take the additional time to evaluate the following:

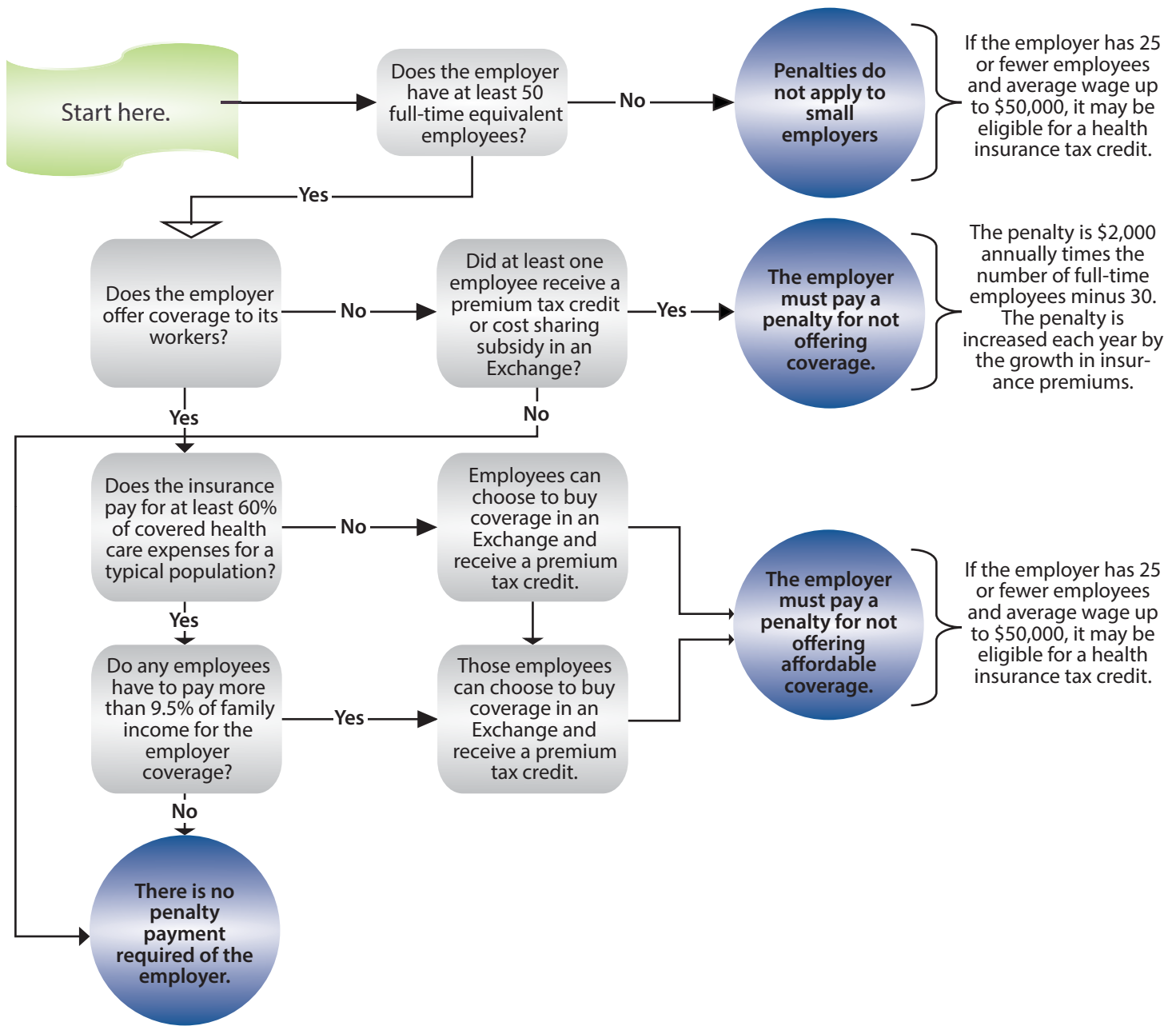
- Staffing needs: Weigh the benefits and costs of full time vs part time employees.
- Workforce adjustments: Cutting the number of full-time employees below 50 will not by itself let small businesses sidestep ACA requirements (refer to definition of full time equivalent employees on page 1). In addition, cutting hours or jobs to avoid ACA provisions may prompt lawsuits from benefit plan attorneys. Small businesses may pursue workforce adjustments well before the employer mandate is imposed and if there is an independent business reason for the move.
- Corporate restructuring: There are several ACA rules, based on the definitions of "controlled groups" and "affiliated service groups", which determine whether or not an employer will be treated as a single employer (definitions can be found under Internal Revenue Code §§414). So setting up entities under different tax IDs may not be a viable solution and could potentially result in penalties. This should be carefully evaluated before taking action.
- Penalty taxes: Will they apply to you? Depending upon the number of employees and premium tax credits, an employer may be assessed an annual penalty of \$2,000 multiplied by the number of employees in excess of 30 for not offering a health insurance benefit. This penalty can be increased each year by an index's growth in insurance premium (see illustration).
- Retaining talent: Although the employer mandate does present a potential increase in benefit costs, the ability to attract and retain talent is critical to any business. Consider the importance of health insurance in offering a competitive employee benefit package.

64% and 53%:

Percentage of business decision-makers in franchisee and non-franchisee owned businesses that believe the ACA will have a negative impact on their businesses.²

Given the fluid nature of the effective dates of the ACA's small business provisions, it is important to monitor the potential changes and their effect on a regular basis.

Penalties for Employers Not Offering Affordable Coverage Under the Affordable Care Act



Source: Kaiser Health News. www.kaiserhealthnews.org

Financial Impact on Small Businesses

For some small businesses this will be an opportunity to provide coverage for their employees, but for most small businesses, the ACA will likely result in increased costs. The CMS reports 65% of small businesses will see a spike in insurance premiums under the ACA.³ It remains to be seen what the true implications will be, but under increased pressure, small businesses may be forced to consider alternative options including: reduce the number of full time employees, lay off employees or postpone hiring additional employees, weigh the cost of the penalty versus the cost of providing insurance, pass the additional costs on to employees or outsource functions to remain under the applicable “cap”.

What does this mean to you, the Small Business owner?

The Affordable Care Act will provide increased accessibility to the health care system for many people, but as a small business owner, it is important to understand how employees can access this system and what the financial implications are to you and your business. Determining whether or not to offer coverage, the type of coverage and increasing or decreasing the number of full time or part time employees, are all decisions that will likely impact your bottom line. Discuss your situation with your financial advisor who can help you adjust your business’ financial plan and connect you to the appropriate health care experts as needed.

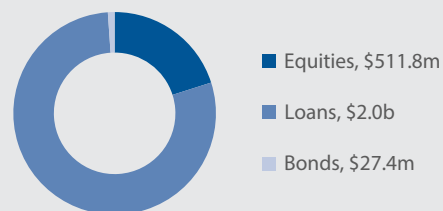
Healthcare Sector at Highland



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Healthcare Sector at Highland, \$2.5 Billion⁴



- 1) Kaiser Family Foundation, How Small Business Owners Get Health Insurance, September 28, 2012
- 2) International Franchise Association and US Chamber of Commerce, National Research of Business Decision Makers, September-October 2013
- 3) Center for Medicare and Medicaid, Office of the Actuary, report released February 21, 2014
- 4) As of 3/31/14, inclusive of Highland Capital Management, L.P. and affiliates, based on fee calculation AUM

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