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Employer Responsibility in Health Reform

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The recent health reform legislation requires larger employers to share the responsibility for assuring that their employees have health coverage.¹ Large firms that employ full-time workers who obtain subsidized health insurance in the new health insurance exchanges – rather than employer-sponsored coverage – will be required to pay a penalty.

Why is an employer responsibility requirement needed?

The employer responsibility requirement is designed to strengthen the system of employer-sponsored insurance, which is the primary source of health coverage for nonelderly Americans. It encourages firms that now offer health insurance to continue doing so, and it encourages firms that do not offer coverage to start. Covering as many people as possible through employer-sponsored insurance will hold down the cost of health reform to taxpayers.

Which employers are covered by the requirement?

The requirement applies to firms that employ an average of 50 or more full-time-equivalent employees (FTEs). Two half-time employees, for example, will be counted as one full-time-equivalent. The requirement becomes effective in 2014.

What about small employers?

Small employers (those with fewer than 50 FTEs) are exempt from the employer responsibility requirement. But starting in 2010, firms that employ fewer than 25 FTEs and whose average wage is less than \$50,000 are eligible for tax credits to help and encourage them to offer health insurance to their workers.²

What requirement applies to employers that do not offer health coverage?

Large employers that do not offer health insurance coverage will pay an annual penalty of \$2,000 for every full-time employee beyond the first 30, as long as the employer has at least one employee who receives subsidized coverage in the local health insurance exchange. This requirement becomes effective in 2014. The penalty amount will be adjusted annually after 2014 to reflect the national increase in insurance premium costs. No penalty applies to part-time workers (those working less than 30 hours a week) who are not offered coverage.

Under health reform, almost everyone who lacks access to Medicaid or employer-sponsored insurance will be able to purchase health insurance through a new system of health insurance exchanges. Those whose income falls below 400 percent of the poverty line (\$88,000 for a family of four) will be eligible for a premium credit to subsidize their purchase of insurance in the exchange. Moreover, most people will be required to have health insurance coverage (the “individual mandate”). As a result, almost all firms that employ at least 50 FTEs and do not offer coverage are likely to have at least one full-time employee who



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receives a premium credit to purchase coverage in the exchange. This means that nearly all firms of this size that do not offer coverage will pay \$2,000 per worker for all full-time employees after the first 30.

What requirements apply to employers that offer health coverage?

Employers with 50 or more FTEs will pay a penalty of \$3,000 a year for each full-time worker who is offered employer coverage but instead receives a premium credit to buy coverage in the exchange. The total amount that an employer will have to pay with respect to such employees will be capped at an amount equal to \$2,000 times the total number of full-time workers in excess of 30 that the firm employs. These dollar amounts will be adjusted annually after 2014 by the growth in health insurance premiums.

Employees offered coverage by their employer will generally be barred from purchasing coverage in the exchange — as long as the coverage meets a minimum standard (it must have at least a 60-percent actuarial value) and the worker does not have to pay more than 9.5 percent of income for the employee share of the premium. If an employee has to pay more than 9.5 percent of income for coverage and the employee's family income is below 400 percent of the poverty line, the employee will be eligible to receive a subsidy to help him or her buy coverage in the exchange.

Most firms that offer coverage will meet the 60 percent actuarial standard for coverage. A substantial number of low-wage workers at these firms, however, likely will be charged more than 9.5 percent of income for the employee share of the premium. As a result, the number of low-wage employees who are offered employer coverage but receive a premium credit to purchase coverage in the exchange instead could be substantial. Since the penalty the employer will pay in such cases — \$3,000 — will generally be less than the cost of providing employer-sponsored coverage (which averages around \$5,000 for an individual), employers who offer reasonable coverage should not find the penalty a deterrent to hiring a worker who buys subsidized coverage in the exchange rather than enrolling in the employer's plan.

Employers must offer what the legislation refers to as “free-choice vouchers” to employees whose share of the premium for employer-sponsored coverage would be between 8 and 9.8 percent of their income. The amount of an employee's voucher would equal the contribution the employer would make to its own health plan on behalf of the employee, and the employee could use the voucher to purchase insurance in the exchange. Employees receiving free-choice vouchers are not eligible for subsidies.

Will employers continue to offer health coverage?

Almost all large employers offer health insurance today, even though they are not required to, and most are likely to continue offering coverage under the health reform law. The individual mandate will increase workers' desire for employer-sponsored coverage, and employer contributions for coverage will still receive preferred tax treatment. Some firms with large numbers of low-wage workers who could qualify for premium subsidies may decide that it would be beneficial to them and their workers for the firm not to continue offering coverage. But the Congressional Budget Office estimates that the number of people receiving coverage through their employer will not be very different — it will be about 2 percent lower by 2019 — than it would have been in the absence of the health reform legislation.³

¹ Patient Protection and Affordable Care Act (Public Law 111-148), sections 1513, 10106, and 10108; Health Care and Education Reconciliation Act (Public Law 111-152), section 1003.

² Chris L. Peterson and Hinda Chaikind, *Summary of Small Business Health Insurance Tax Credit Under PPACA (P.L. 111-148)*, Congressional Research Service, April 5, 2010.

³ Douglas W. Elmendorf, Director, Congressional Budget Office, Letter to the Honorable Nancy Pelosi, March 20, 2010.