



# Health care reform checklist for businesses with 50+ full-time equivalent employees

## Simplify compliance details with a straight-forward list of provisions

When it comes to compliance with the Affordable Care Act (ACA) – it can seem hard to see the forest for the trees. With over 1000 pages of text and tens of thousands of additional pages of issued regulations, notices and guidance, deciphering the law is no easy task. Aflac can help you take the first step; review this checklist of key provisions, many from the U.S. Small Business Administration, with your benefits consultant to ensure you are complying with the ACA.



Task	Details	Completion Date
<b>Assess shared responsibility requirement and applicable penalties</b>	<p>Starting in 2015, employers with 50 or more full-time equivalent employees will be subject to a shared responsibility payment if the employer fails to offer affordable minimum value coverage and at least one full-time employee obtains a premium tax credit or cost-share reduction through the Health Insurance Marketplace. If an employer offers coverage, it must be offered to substantially all full-time employees and their dependents.<sup>1,2</sup> It is important for employers to keep detailed records of compliance with the shared responsibility provision, including determination of full-time employee status and other applicable details.</p> <p><b>Affordable:</b> Does not exceed 9.5 percent of employee’s annual household income.</p> <p><b>Minimum value:</b> Plan pays at least 60 percent of covered health expenses.</p> <p>Note: The IRS offers safe harbor provisions allowing employers to take into consideration other methods to calculate household income (e.g. W-2 income, rate of pay or federal poverty line) since employers typically do not know an employee’s household income.</p>	
<b>Distribute a Summary of Benefits Coverage (SBC) to employees</b>	<p>An SBC must be provided to all applicants and enrollees before enrollment or re-enrollment. The SBC must provide an accurate description of the benefits and coverage under the applicable plan or coverage. This requirement applies to group health plans (both insured and self-insured) and health insurance issuers offering group or individual health insurance coverage.<sup>3</sup></p> <p>A sample from the Department of Labor (DOL) is available at: <a href="http://dol.gov/ebsa/pdf/CorrectedSampleCompletedSBC.pdf">dol.gov/ebsa/pdf/CorrectedSampleCompletedSBC.pdf</a>.</p>	

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<b>Communicate to current and future employees about health insurance marketplaces</b>	<p>This notice was required for employers subject to the Fair Labor Standards Act (FLSA) for all current employees by Oct. 1, 2013. If your company hasn't sent it yet, now is a perfect time to comply with the requirement. Notice to new employees is also required upon hire.</p> <p>Aflac has created a <a href="#">Health Care Reform Communication Toolkit</a> to help employers comply, and the DOL provides two model notices, one for employers that offer insurance and the other for employers that do not offer insurance at: <a href="http://dol.gov/ebsa/healthreform/">dol.gov/ebsa/healthreform/</a>.</p>	
<b>Distribute applicable MLR rebates due to your employees within three (3) months</b>	<p>Major medical insurers that do not meet new medical loss ratio (MLR) requirements are now required to issue rebates to policyholders by Aug. 1 each year. In most cases, it is the employer's responsibility to distribute the participant portion within three months of receiving the rebate. The details on distribution depend on the type of plan offered (e.g., church plan, ERISA, etc.).<sup>4</sup></p> <p>The IRS FAQ provides additional information on these rebates at: <a href="http://irs.gov/uac/Medical-Loss-Ratio-%28MLR%29-FAQs">irs.gov/uac/Medical-Loss-Ratio-%28MLR%29-FAQs</a>.</p>	
<b>Report Cost of Coverage on Employees' W-2 Forms</b>	<p>To help show how much an employer contributes toward an employee's health care coverage, employers that issued 250 or more W-2s in the prior year are required to report the total aggregate cost of major medical health benefits and certain pre-tax funded supplemental health coverage provided to each employee on the employees' W-2 Forms. This information will be reported in Box 12, using Code DD. The reporting is for informational purposes only and has no tax impact to the employer. Reporting is optional for employers who file fewer than 250 W-2s until further guidance is issued by the IRS.<sup>5</sup></p>	
<b>Comply with flexible spending account (FSA) limits</b>	<p>For cafeteria plan years beginning on and after Jan. 1, 2013, employer-sponsored cafeteria plans must limit employee annual salary reduction contributions to health flexible spending arrangements to \$2,500. The \$2,500 limit applies to employee participants on a plan-year basis, and will be indexed for cost-of-living adjustments for future plan years.<sup>6</sup></p> <p><i>Note: The limit does not apply to certain employer non-elective health FSA contributions, or to any contributions or amounts available for reimbursement under other types of FSAs (such as a dependent care FSA), health savings accounts (HSAs), health reimbursement arrangements (HRAs), or to salary reduction contributions to cafeteria plans used to pay an employee's share of health coverage premiums.</i></p>	
<b>Withhold additional Medicare tax on high-wage earners</b>	<p>A 0.9 percent additional Medicare tax raises the Medicare tax rate for certain earners from 1.45 percent to 2.35 percent. The additional Medicare tax applies to an individual's wages, compensation and self-employment income that exceeds a threshold amount based on the individual's filing status (\$250,000 for married taxpayers who file jointly and qualifying widow(er) with dependent child, \$125,000 for married taxpayers who file separately, and \$200,000 for all other taxpayers). It is paid solely by employees and does not have to be matched by employers; however, the employer is responsible for withholding the additional Medicare tax from wages or compensation paid to an employee in excess of \$200,000 in a calendar year.<sup>5</sup></p>	

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<b>Withhold applicable Medicare assessment on net investment income</b>	A new 3.8 percent Net Investment Income Tax is applied to individuals, estates and trust with income with net investment income and modified adjusted gross income above certain thresholds (\$250,000 for married taxpayers who file jointly and qualifying widow(er) with dependent child, \$125,000 for married taxpayers who file separately, and \$200,000 for all other taxpayers). Investment income may include interest, dividends, capital gains, rental and royalty income, non-qualified annuities, income from businesses involved in trading of financial instruments or commodities, and businesses that are passive activities to the taxpayer. <sup>8</sup> Check with your payroll service provider, or tax or accounting advisor for specifics.	
<b>Keep benefits waiting period limits to 90 days or less</b>	Beginning Jan. 1, 2014, health care reform restricts waiting periods to a maximum of 90 days for group health plans and group health insurers. <sup>9</sup>	
<b>Confirm payment of the required contribution to the temporary reinsurance program</b>	During the first three years post reform (2014–2016), a temporary reinsurance program for the individual insurance market will be funded by a required contribution from all group major medical plans. The per capita amount is paid for each enrollee by the insurer or third-party administrators on behalf of self-funded plans. <sup>10</sup> Confirm with your insurer or third-party administrator that the contribution is assessed for applicable plan years. The fee is not applicable if your company does not offer insurance.	
<b>Comply with applicable health-contingent wellness incentive standards</b>	Health care reform increases the maximum permissible reward under a health-contingent wellness program from 20 percent to 30 percent of the cost of health coverage, and also increases the maximum reward to as much as 50 percent for programs designed to prevent or reduce tobacco use. Generally, a health-contingent wellness program requires individuals to meet a specific health standard to gain a reward. Examples include: a reward for not using or decreasing use of tobacco, or a reward for achieving a specified cholesterol level or weight. <sup>11</sup>	
<b>Gear up for health insurance coverage reporting</b>	Employers subject to shared responsibility standards and self-insured employers must report information to the IRS on the employee receiving coverage, dates of coverage, the employer paid portion of the premium, and other information the Department of Health and Human Services (HHS) may require. Statements are to be provided annually to employees by Jan. 31. The annual reporting begins in 2016 for the 2015 plan year. <sup>1,12</sup>	

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<p><b>Ask your benefits consultant about requirements, standards, restrictions and limits</b></p>	<p>If your company offers health coverage to employees, there are several benefits design requirements, including standards, restrictions and limits. Be sure to ask your benefits consultant about:</p> <ul style="list-style-type: none"> <li>» <b>Design requirements:</b> Benefits plans offered in the large group market must (1) meet minimum value requirements, (2) meet affordability standards, and (3) provide certain preventive services at no cost to employees.</li> <li>» <b>Out-of-pocket limits:</b> Employee cost-share payments for in-network covered services and out-of-network emergency services cannot exceed specified out-of-pocket limits: \$6,350 for individual coverage and \$12,700 for family coverage in 2014.</li> <li>» <b>Lifetime and dollar limits:</b> Large group plans are not required to include essential health benefits, but if they do, lifetime and dollar limits are prohibited on such benefits.</li> <li>» <b>Deductible limits:</b> \$2,000 for individual coverage, and \$4,000 for family coverage in 2014.</li> <li>» <b>Rating restrictions:</b> Health plans must comply with new rating restrictions.</li> <li>» <b>Exclusions:</b> Employees cannot be excluded based on pre-existing conditions.</li> <li>» <b>Dependent coverage:</b> Coverage must be accessible for dependent children up to age 26.</li> <li>» <b>Non-discrimination requirements:</b> Highly compensated employees cannot be offered better health insurance coverage than other employees.</li> <li>» <b>Size definition change in 2016:</b> Starting Jan. 1, 2016, employers with up to 100 employees will have to comply with federal and state laws applicable for small employers.</li> </ul>	

## Sources:

- <sup>1</sup> Internal Revenue Service (2013). Transition Relief for 2014 Under §§ 6055 (§ 6055 Information Reporting), 6056 (§ 6056 Information Reporting) and 4980H (Employer Shared Responsibility Provisions). Accessed on August 21, 2013, from [irs.gov/pub/irs-drop/n-13-45.PDF](http://irs.gov/pub/irs-drop/n-13-45.PDF).
- <sup>2</sup> Congressional Research Service (2010). Summary of Potential Employer Penalties under the Patient Protection and Affordable Care Act (ACA), accessed on November 9, 2012, from [www.ncsl.org/documents/health/EmployerPenalties.pdf](http://www.ncsl.org/documents/health/EmployerPenalties.pdf).
- <sup>3</sup> Federal Register (2012). Summary of Benefits and Coverage and Uniform Glossary, accessed on September 25, 2012, from [gpo.gov/fdsys/pkg/FR-2012-02-14/pdf/2012-3228.pdf](http://gpo.gov/fdsys/pkg/FR-2012-02-14/pdf/2012-3228.pdf).
- <sup>4</sup> Internal Revenue Service (2012). Medical Loss Ratio (MLR) FAQs, accessed on September 25, 2012, from [irs.gov/uac/Medical-Loss-Ratio-\(MLR\)-FAQs](http://irs.gov/uac/Medical-Loss-Ratio-(MLR)-FAQs).
- <sup>5</sup> Internal Revenue Service (2012). Form W-2 Reporting of Employer-Sponsored Health Coverage, accessed on September 25, 2012, from [www.irs.gov/uac/Form-W-2-Reporting-of-Employer-Sponsored-Health-Coverage](http://www.irs.gov/uac/Form-W-2-Reporting-of-Employer-Sponsored-Health-Coverage).
- <sup>6</sup> Internal Revenue Service (2012). Section 125 Cafeteria Plans, accessed on September 25, 2012, from [irs.gov/pub/irs-drop/n-12-40.pdf](http://irs.gov/pub/irs-drop/n-12-40.pdf).
- <sup>7</sup> Internal Revenue Service (2013). Questions and Answers for the Additional Medicare Tax, accessed on September 27, 2013, from [irs.gov/Businesses/Small-Businesses-&Self-Employed/Questions-and-Answers-for-the-Additional-Medicare-Tax](http://irs.gov/Businesses/Small-Businesses-&Self-Employed/Questions-and-Answers-for-the-Additional-Medicare-Tax).
- <sup>8</sup> Internal Revenue Service (2012). Net Investment Income Tax FAQs, accessed on March 6, 2013, from [irs.gov/uac/Newsroom/Net-Investment-Income-Tax-FAQs](http://irs.gov/uac/Newsroom/Net-Investment-Income-Tax-FAQs).
- <sup>9</sup> U.S. Department of Labor (2013). Frequently Asked Questions from Employers Regarding Automatic Enrollment, Employer Shared Responsibility, and Waiting Periods, accessed March 5, 2013, from [dol.gov/ebsa/newsroom/tr12-01.html](http://dol.gov/ebsa/newsroom/tr12-01.html).
- <sup>10</sup> Federal Register (2012). 45 CFR Part 153, accessed on September 27, 2013, from [gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/2012-6594.pdf](http://gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/2012-6594.pdf).
- <sup>11</sup> Federal Register (2013). 45 CFR Parts 146 and 147, accessed on September 27, 2013, from [www.gpo.gov/fdsys/pkg/FR-2013-06-03/pdf/2013-12916.pdf](http://www.gpo.gov/fdsys/pkg/FR-2013-06-03/pdf/2013-12916.pdf).
- <sup>12</sup> Internal Revenue Service (2012). Request for Comments on Reporting of Health Insurance Coverage, accessed March 5, 2013, from [irs.gov/pub/irs-drop/n-12-32.pdf](http://irs.gov/pub/irs-drop/n-12-32.pdf).

## For more information

As you continue to navigate health care reform, you can rely on Aflac to provide updates and helpful information at: [aflac.com/insights](http://aflac.com/insights). To learn more about coverage available in your state, visit: [healthcare.gov](http://healthcare.gov), [sba.gov/healthcare](http://sba.gov/healthcare), [ccio.cms.gov](http://ccio.cms.gov) and [irs.gov](http://irs.gov).

This material is intended to provide general information about an evolving topic and does not constitute legal, tax or accounting advice regarding any specific situation. Aflac cannot anticipate all the facts that a particular employer or individual will have to consider in their benefits decision-making process. We strongly encourage readers to discuss their HCR situations with their advisors to determine the actions they need to take or to visit [healthcare.gov](http://healthcare.gov) (which may also be contacted at 1-800-318-2596) for additional information.

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