



Health Care Mandates for Small Business

By Andrew S. Williams

The new health care reform law contains an income tax credit for small employers (those with 24 or fewer “full time equivalent” employees with an average compensation of less than \$50,000). This tax credit is available effective January 1, 2010.

HealthReform.Gov provides a further explanation of the health care reform provisions and contains the following Q & A under the heading “Small Business”:

“Q: Am I required to offer insurance to my employees?”

A: No. There is not a so-called ‘employer mandate’ in the legislation.”

This sounds like more good news for small businesses, but the answer only applies to employers with 49 or fewer employees. Whether you call it a “mandate” or an “employer responsibility” requirement, larger employers (those with 50 or more employees) must either provide health care coverage or pay a penalty of \$2,000 per full-time worker if any one of those workers receives a government subsidy to assist them in purchasing individual health insurance coverage. Mandate or not, the small business exception from this requirement is expected to apply to 5.8 million employers, or 96% of all employers in the United States, and to their 34 million employees.

Other small business health care perks:

- Starting January 1, 2011, health plans are required to provide a premium rebate to consumers if the portion of premiums spent on clinical care and quality (as opposed to insurer overhead and profit) is less than 85% in the large group market. For the small group and individual market, the percentage threshold drops to 80%, which could provide a larger premium rebate for small employer plans with good claims experience.
- The health care reform legislation clarifies procurement rules so that federal agencies cannot waive a Federal Acquisition Regulation that requires them to meet small business contracting goals of 23%. More unrestricted government contracts could mean more government work for small businesses.
- Employers with fewer than 100 employees will have access to the state-based Small Business Health Options Program (SHOP) Exchanges. These exchanges

are intended to provide standardized information about available private health care coverage options in order to make purchasing decisions easier. However, these exchanges will not be available until 2014 (larger employers will have to wait until 2017 for access to the SHOP Exchanges).

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