LANE POWELL ATTORNEYS & COUNSELORS

Affordable Care Act Compliance

With Summer Approaching, Are Employers Feeling the Heat?

BY KARA BACKUS

As we embark on summer and employers inch closer to some of the major compliance deadlines put into place by the Affordable Care Act (ACA), it seems like a good time to review some recent updates that employers should be aware of as they plan their strategies for meeting the demands of the new law.

Temporary Reprieve for "Mid-size" and "Large" Employers

Final regulations issued this winter on the employer mandate provide transitional relief to "mid-size" employers with 50-99 full-time equivalent employees. Mid-size employers now have an additional year to comply with the employer "shared responsibility" rules, meaning they will not face penalties for failing to offer adequate coverage to 95 percent of full-time employees until January 1, 2016. Although "large" employers with 100 or more full-time equivalent employees will still be required to comply with the shared responsibility rules as of January 1, 2015, those employers have also been granted some relief. For 2015 *only*, large employers will face penalties if they fail to offer adequate coverage to 70 percent of their full-time employees.

Reporting Requirements for Employers, Insurers and Self-Insured Plans

In March, the Internal Revenue Service (IRS) issued final regulations on the reporting requirements for employers, insurers and self-insured plans under Internal Revenue Code (Code) sections 6055 and 6056. Beginning in 2016, the regulations require insurers and self-insured plans to collect and report detailed information to the IRS regarding health coverage provided in the prior year, including tax identification numbers for covered individuals and dates of coverage. Additionally, employers with 50 or more full-time equivalent employees will be required to report the cost of the lowest-priced option under health plans offered to full-time employees, and whether the plans provide "minimum value," as required by the shared responsibility rules. So, even mid-size employers who have until 2016 to comply with the shared responsibility rules will be required to provide a report for 2015. The reports, which are filed on IRS Forms 1095-B and 1095-C, will give the IRS information necessary to impose penalties under the ACA on employers who do not offer coverage to full-time employees and on individuals who do not obtain coverage. Employers, insurers and self-insured plans will be required to supply copies of the forms to employees, insureds or other responsible individuals.

Kara Backus is an attorney at Lane Powell, where she practices exclusively in the areas of employee benefits and executive compensation. She works regularly with qualified and non-qualified plans governed by the Internal Revenue Code and ERISA, and she closely follows new legislation and regulatory guidance related to health and welfare plan compliance under the Affordable Care Act and HIPAA. She can be reached at 503.778.2181 or backusk@lanepowell.com.

Updated COBRA Notices

In May, the Department of Labor issued updated model Consolidated Omnibus Budget Reconciliation Act (COBRA) notices. The revisions to the notices are intended to inform individuals who have experienced a qualifying event under COBRA that they may choose to purchase coverage through a state health care exchange in lieu of purchasing coverage through their former employer's plan. Individuals purchasing coverage through a health care exchange may be eligible for federal premium subsidies that could make the cost of coverage less expensive than the full premium charged by a former employer. One significant difference, however, between the two coverage options is that the coverage offered through COBRA is retroactive to the date of the loss of coverage, whereas coverage obtained through a health care exchange is prospective. Therefore, individuals who do not want to experience any gap in coverage will likely opt for the more expensive COBRA coverage, at least until the next annual enrollment period. Employers updating their COBRA notices may wish to offer former employees the maximum time period in which to make the decision between COBRA coverage and coverage offered through a healthcare exchange.

Employers should determine which of the above requirements apply to them, as well as the applicable deadlines, to ensure that there is enough time to make necessary changes to plans, policies and employee notices.

OregonBusiness