

Health Reform answers personalized for your business.

State of North Dakota & Political Sub-Divisions
Healthcare Reform Discussion
Updated July 2, 2014



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Blue Cross Blue Shield of North Dakota is an independent licensee of the
Blue Cross & Blue Shield Association

Wellian Mutual Insurance Company

Today's Agenda:

- **Affordable Care Act Key Provisions & Timeline**
- **State of North Dakota & Political Sub Employer Impact**
- **ACA Readiness Assessment**
- **Wrap Up**

Key Affordable Care Act (ACA) Provisions

Understanding the impact of reform is the first step to developing a benefits strategy that aligns with the emerging market landscape

Beginning in 2014

- **Guaranteed Issue/Individual Mandate:** All individuals will be able to purchase coverage regardless of health status. All individuals must have minimum essential coverage or penalties may apply.
- **Benefit & Cost Sharing Standards:** New health plans sold in the small group and individual markets are required to cover the essential benefits and have at least a 60% actuarial value.¹ These plans will need to be a “metal tier” plan. Grandfathered plans exempt.
- **Public Exchange:** Individuals will be able to purchase individual coverage on health insurance exchanges. Small employers can purchase coverage through SHOP.²
- **Consumer Subsidies:** Individuals with household incomes at or below 400% of federal poverty level (FPL)³ will be eligible for income-indexed premium subsidies, and those below 250% of the FPL will be eligible for cost-sharing reduction for coverage purchased on public exchange.
- **Employer “Mandate” (Shared Responsibility):** All employers with 50 or more full-time equivalents must provide adequate, affordable health benefits to employees or pay a penalty per full-time employee per year. Coverage must be offered to employees and dependents. (New Transition Relief Rules Apply)

1) Actuarial value = % of total average costs for covered benefits that a plan will cover

2) Small Employer Health Options Program

3) In 2014, \$46,680 for an individual and \$95,400 for a family of four (source: <http://aspe.hhs.gov/poverty/12poverty.shtml>)

Potential Employer Penalties

There are two ways in which employers may be penalized in the post-reform market

General Penalty Criteria:¹

- Employer has at least 50 full-time equivalent employees
- One or more eligible employees purchase subsidized coverage through exchange

Employer Does Not Offer Coverage:

- Employer is penalized on all employees excluding the first 30 (80 in 2015) full time employees (30+ hours/week)

No Coverage Penalty:

\$2,000 (per full-time employee)

Employer Offers Unaffordable Coverage:

- Employer is penalized if employees' premium contributions exceed 9.5% of wages² and/or the plan covers less than 60% of health care expenses

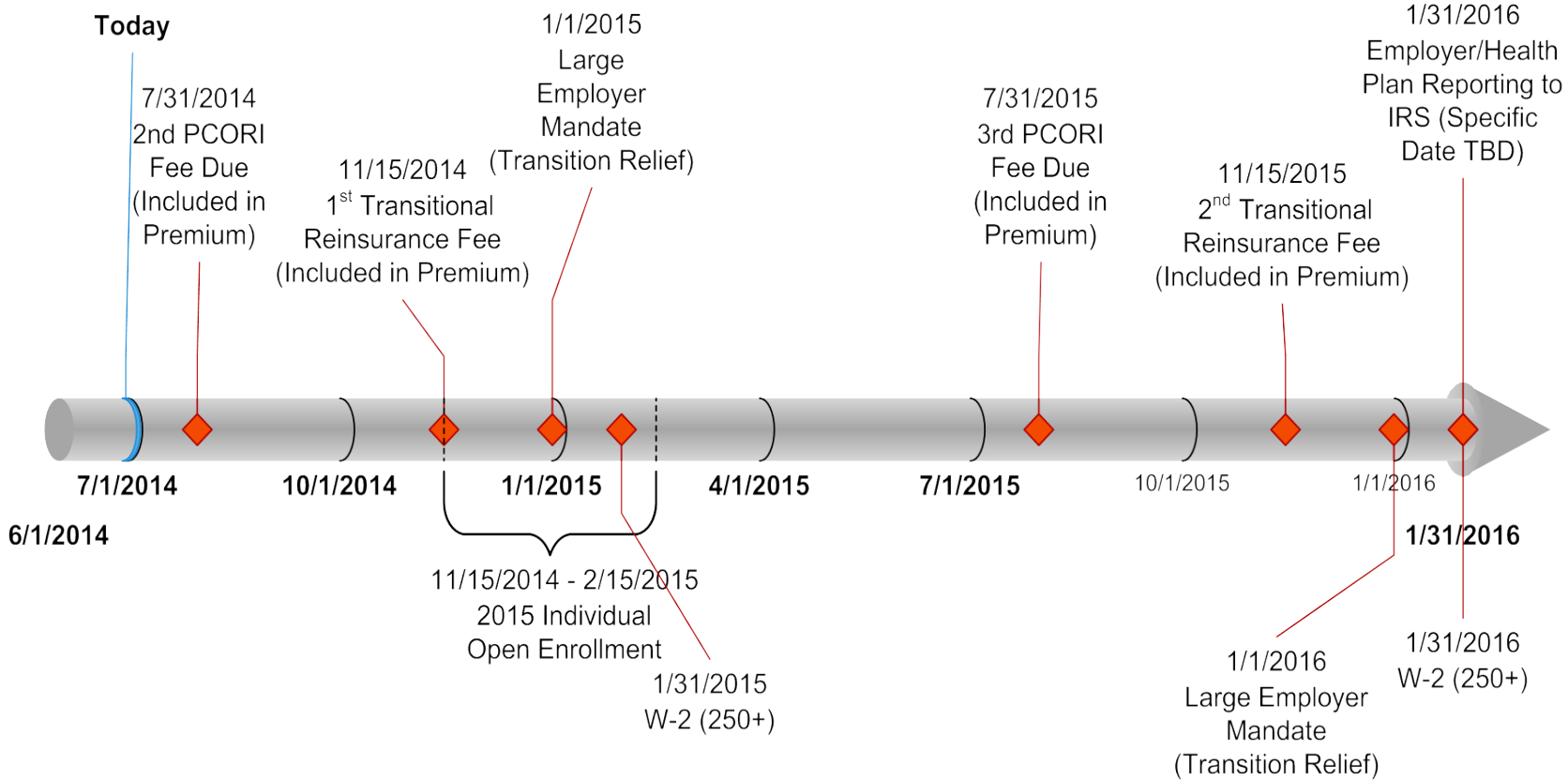
Unaffordable Coverage Penalty:

\$3,000 (per full-time employee obtaining subsidies)

1) Penalties go into effect in 2015 for employers with 100+ FTEs

2) Although the IRS has issued guidance providing a safe harbor for employers, the ACA law itself specifies that affordability be calculated based on the employee's total household income rather than the employee's wage

ACA Timeline



Preparing for 2015:

Summary of Important Steps to Complete in 2014

Assess Your Readiness for ACA Requirements

1. Compute if Your Group is an “Applicable Large Employer” (50+ FTEs)¹
 - a. State of ND is Large Employer
 - b. Political Sub-Divisions must compute FTE count
2. Determine if you offer Coverage to Substantially All “Full-Time”² Employees
 - a. Employers with <50 FTEs are not subject to the employer mandate
 - b. Employers with 50-99 Report/Certify Only in 2015 and Offer coverage to 95% in 2016
 - c. Employers with 100+ Offer Coverage to 70% in 2015 and 95% in 2016
 - d. Applicable Large Employers review and determine full-time status of all employees
 - > ACA Full-Time Definition = Average 30+ hrs/week (130 hrs/month)
 - > (State of ND Full-Time = Current State Full-Time + Temporary Full-Time)
3. Evaluate if coverage offer is affordable³ (Note: NDPERS coverage already meets minimum value and minimum essential coverage requirements)
4. Update Eligibility, Premium Contribution and Full-Time Employee Criteria
 - a. Implement Salary and Premium Contribution combination that is affordable

1) See Link in Resources to Shared Responsibility Regulations (Pages 8546, 8582-83)and IRS Q & A (Q 4-14)

2) “...Regulations (Pages 8552-63)and IRS Q & A (Q 15-17)

3) “... Regulations (Pages 8563-65)and IRS Q & A (Q 19)

Employer Mandate Summary

ACA mandates that Applicable Large Employers offer minimum value and affordable coverage to applicable percentage of full-time employees working an average of at least 30 hours/week (130 hours/month) or pay a penalty of up to \$2,000/Full-Time employee annually minus 30 (minus 80 in 2015)

- Employers with <50 FTEs are not required to offer coverage to any employees.
- Employers with 50-99 FTEs will report & certify in 2015 and offer coverage to 95% of full-time employees in 2016. Not required to meet mandate in 2015.
- Employers with 100+ FTEs offer coverage to 70% of full-time employees in 2015 and 95% in 2016. Transition rules apply.



1. Is Your Group an “Applicable Large Employer?”

Employers need to determine if they are an Applicable Large Employer (50+ FTEs) and subject to the employer mandate in 2015 (100+FTEs) or 2016 (50-99 FTEs).

Regulation applies standards for common law employees, hours of service and employer aggregation and is based on previous calendar year. For 2015 determination, employers may use any consecutive six month period in 2014 to determine large group status.

Calculate for each month the sum of the number of full-time employees(including seasonal) + non full-time employees(including seasonal) calculated as full time equivalents(FTE). FTEs are calculated as the aggregate monthly hours of non full-time employees divided by 120. Seasonal worker exception may apply.

Employee Status	2014												Average	
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
Full-Time Employees	45	45	45	45	45	45	45	45	45	44	45	45	44.9	
+														
Part-Time FTEs (<120 Hrs/Month)	3.8	3.8	3.8	3.8	3.8	3.8	3.9	4.0	3.8	3.8	3.8	3.8	3.8	
+														
Seasonal FT & FTEs	-	-	-	-	10.0	10.0	10.0	-	-	-	-	-	2.5	
Total FTEs With Seasonals	48.8	48.8	48.8	48.8	58.8	58.8	58.9	49.0	48.8	47.8	48.8	48.8	51	
FTE Without Seasonals	49	49	49	49	49	49	49	49	49	48	49	49	49	
Seasonals Cause FTEs to be 50+?	No	No	No	No	Yes	Yes	Yes	No	No	No	No	No		
Average FTEs	51													
FTEs Avg 50+ <120 days & was excess due to Seasonals?	Yes	If Yes, Seasonal FTEs are excluded and employer is Small Group												

2. Do you offer Coverage to Substantially All Full-Time Employees?

Employers with 50-99 FTEs Report in 2015 and Offer Coverage to 95% of full-time employees in 2016

- Employers may avoid penalties for 2015 Plan Year if they certify that they meet eligibility conditions:
 - Limited Workforce Size – Determination of size (50-99 FTEs) in accordance with FTE count for “applicable large employer” status.
 - Maintenance of workforce and aggregate hours of service – Reduction for bona fide business reasons does not affect eligibility for transition relief.
 - Maintenance of previously offered health coverage - contribution , coverage and classes.
 - Provide certification of eligibility. (Part of 6056 reporting)

2. Do you offer Coverage to Substantially All Full-Time Employees?

Employers with 100+ FTEs will offer coverage to 70% of full-time employees in 2015 and 95% in 2016

- Review coverage eligibility criteria and employee status according to ACA specifications.
 - Full-Time Employee: Position is defined as full-time with the expectation that employee will work an average of 30 or more hours per week.
 - Variable Hour Employee: Employer cannot “reasonably determine” if position will average 30 or more hours per week and can utilize a safe harbor look-back measurement period to determine if employee is full-time.
 - Seasonal Employee: Position occurs during the same season each year and is less than 6 months in duration (Final Regulations). Positions determined to be seasonal can be subject to a look-back measurement period if applicable.
 - Part-Time Employee: Position is defined as not full-time with the expectation that employee will always work less than 30 hours per week and is not a variable hour or seasonal employee.
- Identify Variable Hour and Seasonal Employees and evaluate full-time status using:
 - Monthly Measurement. OR
 - Optional Look-Back Measurement Safe Harbor.

2. Do you offer Coverage to Substantially (95%) All Full-Time Employees?

- a. Safe Harbor Periods(If applicable) - Employers may utilize optional safe-harbor time period to determine full-time status of both on-going and new employees.
 - **Standard Measurement Period** - Time period of between 3 & 12 consecutive months where employer tracks on-going employees' hours of service and determines if employees works an average of 30 hours per week and are considered full-time. (Employer also uses "Initial Measurement Period" for new employees)
 - **Administrative Period:** Optional time period between Measurement and Stability periods to calculate full-time status, communicate status to employee and conduct open enrollment. (The combined length of Initial Measurement Period + Administrative period for New Employees, determined to be full-time, cannot exceed the first of the month following new employee's one-year anniversary from hire date.)
 - **Stability Period:** Time period of not less than 6 months that employees determined to be full-time during the Standard measurement period are offered full-time coverage. Stability period can correspond to the plan year or to another time period as defined by employer.
- b. Common Law Employee Standard applies where worker is considered an employee if the employer determines the type of work completed and also how it is completed.
- c. Rehire Rules - Employees are considered on-going if they have completed a full standard measurement period. Rehired employees can be considered new if they have no hours of services for 13 weeks (26 weeks for Educational Institutions) or if rehired employee's break in service is between 4-13 weeks (4-26 weeks for Educational), you may treat as new employee if break exceeds the length of prior service. Employer may restart measurement periods for new employees.

2. Do you offer Coverage to Substantially All Full-Time Employees?

- Hours of Service - Based on hours for which employee is paid or, is entitled to be paid for time when no duties are performed. The hours of service definitions are used both in determining applicable large employer group status and full-time employee status in relation to employer shared responsibility requirements. Regulation contains various exclusions and calculations that affect certain students, volunteers, adjunct faculty, on-call staff and others.
- Employers track hourly employees based on actual hours and may apply equivalency methods for non-hourly employees based on days (8 hrs) or weeks (40 hours).
- Educational institution employees hours of service are based on hours worked during expected operating months. (school year)
- Employers may use unique look-back measurement periods for the following categories of employees but must apply criteria uniformly to all employees within category:
 - Salaried or Hourly.
 - Employees whose primary places of employment are in different states.
 - Collectively bargained and non-collectively bargained employees.
 - Employees covered by separate collective bargaining agreements.

2. Do you offer Coverage to Substantially All Full-Time Employees?

- If monthly measurement is applied, full-time employees are offered coverage as defined by eligibility criteria.
- If measurement periods are applied, each on-going employee's hours are reviewed during the standard measurement period to determine if full-time and eligible for coverage during stability period.
- On-going employees are defined as having been employed through one complete standard measurement period.
- Signed waiver is recommended (but not required by ACA) from all on-going, full-time employees who decline coverage.

	2013			2014				2015												2016												
Employee Status	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	
On-Going Employees - Full-Time* -Variable Hour/Seasonal*																																
Standard Measurement Period	Standard Measurement Prd. 1									Standard Measurement Period 2									Stand Measurement 3 ->													
Administrative Period													Admn 1									Admn 2										
Stability Period													Stability Period 1												Stability 2 ->							
* Calculate hours per week for each employee during measurement period, those with 30+ are considered full-time and must be offered coverage.																																

2. Do you offer Coverage to Substantially All Full-Time Employees?

- New Variable Hour Employees' hours are reviewed during initial 12 month measurement period to determine full-time status. If determined to be full-time, employee is offered coverage during initial stability period following a short administrative period.
- New Full-Time (State Temporary) employees upon hire must be offered coverage first of month following hire date. At beginning of following year's measurement period they become on-going employees and subject to standard measurement period.

Employee Status	2013				2014				2015				2016												
	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr					
On-Going Employees* - Full-Time - Variable Hour/Seasonal	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">Standard Measurement Prd. 1</td> <td style="width: 25%; text-align: center;">Standard Measurement Period 2</td> <td style="width: 25%; text-align: center;">Stand Measurement 3 -></td> </tr> <tr> <td style="text-align: center;">Admn 1</td> <td></td> <td style="text-align: center;">Admn 2</td> </tr> <tr> <td style="text-align: center;">Stability Period 1</td> <td colspan="2" style="text-align: center;">Stability 2 -></td> </tr> </table>																Standard Measurement Prd. 1	Standard Measurement Period 2	Stand Measurement 3 ->	Admn 1		Admn 2	Stability Period 1	Stability 2 ->	
Standard Measurement Prd. 1	Standard Measurement Period 2	Stand Measurement 3 ->																							
Admn 1		Admn 2																							
Stability Period 1	Stability 2 ->																								
Standard Measurement Period																									
Administrative Period																									
Stability Period																									
New Var. Hr/Seasonal Employees																									
Employee D - Initial measurement (30+ hrs/wk?) - Administrative (Optional) - Initial Stability (if 30+ hours)	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">Initial Measurement Period</td> <td style="width: 25%; text-align: center;">Adm</td> <td style="width: 25%; text-align: center;">Initial Stability Period</td> </tr> </table>																Initial Measurement Period	Adm	Initial Stability Period						
Initial Measurement Period	Adm	Initial Stability Period																							
Employee E - Initial measurement (30+ hrs/wk?) - Administrative (Optional) - Initial Stability (if 30+ hours)	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">Initial Measurement Period</td> <td style="width: 25%; text-align: center;">Adm</td> <td style="width: 25%; text-align: center;">Initial Stability Period</td> </tr> </table>																Initial Measurement Period	Adm	Initial Stability Period						
Initial Measurement Period	Adm	Initial Stability Period																							
Employee F - Initial measurement (30+ hrs/wk?) - Administrative (Optional) - Initial Stability (if 30+ hours)	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">Initial Measurement Period</td> <td style="width: 25%; text-align: center;">Adm</td> <td style="width: 25%; text-align: center;">Initial Stability Period</td> </tr> </table>																Initial Measurement Period	Adm	Initial Stability Period						
Initial Measurement Period	Adm	Initial Stability Period																							
*After completing a full Standard Measurement Period, employees are considered on-going employees and subject to current Standard Measurement Period																									

Coverage Offers to Full-Time State of ND Employees

State of North Dakota will offer coverage to temporary employee based on their full-time status determination.

- Employees filling temporary positions that are “reasonably determined” to be full-time (according to ACA standards) on hire date will be offered coverage according to full-time active employee criteria. State will track hours by month and measure after first full standard measurement period.
- Employees offered temporary positions considered variable hour (including seasonal) will be subject to measurement period to if they are full-time and whether they qualify for coverage during subsequent stability period.

Examples:

- Variable Hour Employee – Employee hired to long-term position but employer cannot reasonably determine if employee will work an average of 30 or more hours/week (130+ hours/month). Employer can track hours and determine full-time status using look-back measurement period. At end of measurement and administrative period, if employee is determined to be full-time they are offer coverage for the future stability period.
- Seasonal Employee – Employee hired to position on or around May 1 each year to work on grounds or facility for a period of less than six months. Seasonal employees can be considered variable hour and subject to the look-back measurement period to determine their full-time status. If position is typically more than 6 months in duration, it is likely not a seasonal position and employee reasonably expected to work full-time would need to be offered coverage immediately according to full-time criteria and employer would track hours for future look-back determination.
- Short-Term Employee – Employee hired to work a limited term project for 8-12 months and is reasonably expected (based on past projects) to work more than 30 hours/week (130 hours/month) during project. Employee is not a seasonal employee(>6 months) and would be offered coverage according to full-time criteria and employer would track hours from hire date.

2. Do you offer Coverage to Substantially All Full-Time Employees?

Coverage Profile of Employees: 100+ Must offer Coverage to 70%+ of full-time employees in 2015 (and 95% in 2016).

2015 Large Employer Mandate: 100+ FTEs (Example Group)

Status (Current)	Full-Time (30+ Hrs/Wk)	Part-Time (<30 Hrs/Wk)	Total
Eligible Employees			
- Participating	174	28	202
- Non-Participating	37	85	122
Total Eligible	211	113	324
Non-Eligible	80	10	90
Total Employees	291	123	414
<i>-Total Eligible /Total Employees*</i>	72.5%		

* Must be 70%+ in 2015 (95%+ in 2016) Assuming Group Meets Transition Requirements

3. Is Coverage Affordable?

- **Affordability in 2015** - Applicable Large Employers need to determine if coverage is affordable for their employees starting in 2015. Large groups may utilize one of three options under a safe-harbor formula to determine if premium is considered affordable for each employee based on single contribution and premium costs compared to threshold of 9½% of their employee-only income.
 - a. Form W-2 Wages –Income of employee is based on wages paid by employer as reported in Box 1 on W-2 which includes reductions for section 401(k) and section 125 . Calculation allows for partial years due to beginning or ending of employment. Coverage is considered affordable if employee’s required contribution for the lowest cost self-only plan does not exceed 9 ½% of W-2 Box 1 wages for coverage period.
 - b. Rate of Pay – Offer of coverage is considered affordable for a particular calendar month if employee’s required contribution for the lowest cost self-only plan does not exceed 9 ½% of monthly income as calculated: a. 130 hrs x hourly rate for month or b. monthly salary.
 - c. Federal Poverty Line – Offer of coverage is considered affordable for a particular calendar month if employee’s required contribution for the lowest cost self-only plan does not exceed 9 ½% of annual Federal Poverty Line for a single individual divided by 12. 2014 FPL is \$11,670.

3. Is Coverage Affordable?

Employer can adjust contribution, wages, hours or a combination to achieve affordability.

Affordability Analysis			
Full-Time Employee Affordability Example			
Affordability Safe Harbors (*Full-Time Employee Contribution to Single Premium < 9.5% of Income)			
	Affordability: Based on Current		
Employer Inputs	1. Form W-2	2. Rate of Pay	3. FPL
Hours/Week	30	30	30
Monthly Salary (adjusted for Deferred Comp/Section 125)	\$ 2,000		
Wage/Hour*		\$ 15.50	
Federal Poverty Line(Annual)			\$ 11,670
Employer Single Contribution	56.00%	56.00%	79.00%
Employee Single Contribution	44.00%	44.00%	21.00%
Monthly Single Premium	\$ 422.98	\$ 422.98	\$ 422.98
Annual			
Income	\$ 24,000	\$ 24,180	\$ 11,670
Hours/Month	130.0	130.0	130.0
Premium			
Employer	\$ 2,842.43	\$ 2,842.43	\$ 4,009.85
Employee	\$ 2,233.33	\$ 2,233.33	\$ 1,065.91
Total	\$ 5,075.76	\$ 5,075.76	\$ 5,075.76
Employee Single Premium % of Income	9.3%	9.2%	9.1%

* This worksheet is for Illustration Purposes and should not be considered legal or tax advice - Refer to ACA Regulations and specific instructions for calculating the three Affordability Safe Harbors.

Additional Requirements:

- a. **Marketplace Notice** : This notification is required to be delivered to employees within 14 days of their hire date. This notice informs employees of the Health Insurance Marketplace (Exchange), whether their employer plan meets minimum coverage standard and how to access additional information. More information is available on Department of Labor website.
<http://www.dol.gov/ebsa/healthreform/regulations/coverageoptionsnotice.html>

- b. **Discrimination**: Penalties for discrimination in favor of highly compensated employees are significant. Enforcement dates have not been set but employer should review current benefits and contribution to ensure they are compliant. This affects all non-grandfathered groups (including <50 FTEs). Determine if change in eligibility or contribution amount or grandfathered status is required and calculate additional cost if applicable.

Additional Requirements

Plan Reporting Basic Requirements:

- a. Minimum Essential Coverage (6055) <http://www.gpo.gov/fdsys/pkg/FR-2014-03-10/pdf/2014-05051.pdf>
 - Starting in January of 2016, health insurers, self-insured employers, governments and other employer group sponsors that offer minimum essential coverage must report annually to the IRS information about reporting entity and the months enrollees are covered for 2015.
 - BCBSND will report on behalf of State of North Dakota and Political Subs.
- b. Applicable Large Employer Reporting (6056) <http://www.gpo.gov/fdsys/pkg/FR-2014-03-10/pdf/2014-05050.pdf>
 - In 2016, large employers (50+ FTEs) will report information about group including number of full-time employees and contact information to IRS in addition to 6055 information (if applicable).
 - Employer will report information by month for each full-time employee including coverage offered and lowest employee cost of self-only coverage.
 - State of North Dakota and Political Subs that are large group will need to report directly to IRS.

Additional Requirements

Taxes and Fees: Three of the major taxes and fees related to ACA are described below and are applied differently based on whether self-funded or fully-insured. BCBSND pays all three taxes for fully-insured groups including NDPERS:

- i. The **Patient-Centered Outcomes Research Institute (PCORI) Fee** affects fully insured and self-funded plans. Effective 2012-2019, health insurance issuers and employers sponsoring self-funded group health plans must pay \$1 per member per year for plan years ending October, 2012- September, 2013. The fee increases to \$2 per member per year in the second year. Then, the fee adjusts based on the percentage increase in the projected per capita amount of national health expenditures. Payment is due July 31 of each year.
- ii. The **Transitional Reinsurance Fee** impacts both fully insured and self-funded plans. The fees are distributed to health insurance issuers in the non-grandfathered individual market that disproportionately attract individuals at risk for high medical costs. The fee is temporary and is collected from 2014-2016 and the initial year's fee is \$63/member/year or \$5.25/member/month. Payment is due in two installments in 2015. First is due in January (\$52.50) and second (\$10.50) is due in 4th quarter of 2015.
- iii. **Health Insurance Fee** is assessed against all fully-insured business and is projected to cost BCBSND an estimated \$14M in 2014 and add approximately 1.4% to premiums. This tax grows over time and BCBSND's portion is based on its percentage of national premiums.

Additional Requirements:

- a. **Eligibility Criteria:** Large Employers should review current benefit plan participation eligibility criteria to determine whether coverage is offered and affordable to all employees considered full-time (average of 30 hrs/week) as defined by ACA. Calculate cost to group for additional employees not currently covered or adjustments to contributions and/or salaries.

- b. **90-Day Waiting Period:** Review waiting period policy to ensure that employees that are determined to be full-time on hire date are eligible for coverage in ≤ 90 days. BCBSND will allow enrollment of new employees on the 1st or the 16th of the month following 60 days past their employment hire date. Recent regulations allow for additional conditions of eligibility such the successful completion of an orientation period or completion of minimum number of hours.

Questions and Wrap Up

Resources

- **BCBSND.com**
Learn more about health reform
- **ItStartsWithBlueND.com**
BCBSND's website for individuals to learn more about what health reform means to them
- **U.S. Department of Labor** – <http://www.dol.gov/ebsa/healthreform/index.html>
U.S. Department of Labor's dedicated health reform web page
- **N.D. Department of Insurance** – <http://www.nd.gov/ndins/healthcarereform/>
N.D. Department of Insurance's dedicated health reform web page
- **Healthcare.gov**
Federal government website where individuals and small businesses can shop for and purchase health insurance
- **US Treasury Employer Mandate Press Release and Links** – <http://www.treasury.gov/press-center/press-releases/Pages/jl2290.aspx>
- **Employer Shared Responsibility rules defined in Federal Register, Vol. 79, No. 29 Published Wednesday, February 12, 2014** at <http://www.gpo.gov/fdsys/pkg/FR-2014-02-12/pdf/2014-03082.pdf>
- **IRS Shared Responsibilities FAQ** - <http://www.irs.gov/uac/Newsroom/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act>

Discussion & Questions