

# BENEFITS FAQ FOR EMPLOYERS

## FRINGE BENEFITS



**Q.** Does Section 6055 apply to Health Reimbursement Arrangements (HRAs)?

**A.** Minimum essential coverage includes COBRA coverage, major medical coverage provided through a retiree-only plan and also retiree-only HRAs. Reporting is not required for HRAs that are integrated with the employer's medical plan or for Medicare supplemental coverage offered to retirees. Note: Whether reporting is required for stand-alone retiree HRAs is not clear.

## HIPAA



**Q.** As of December 31, 2014, Certificates of Creditable Coverage and the General/Individual Notice of Pre-Existing were eliminated which simplified HIPAA Portability. Are Special Enrollment Rights Notices still required?

**A.** Yes.

## ACA



**Q.** We have 400 employees and can't use the hourly rate of pay method to determine affordability due to it being based on only 30 hours. Since most employees work 45 or more hours per week, the W-2 method seems the obvious choice. By using this option we will not know until the end of the year if coverage is affordable. Can we give different marketplace notices to employees telling them coverage is affordable, is not affordable, or it's unknown at date of hire?

**A.** The rate of pay safe harbor is based upon 130 hours/month, not 30 per week. Using the rate of pay safe harbor, you're allowed to make a determination at the beginning of the plan year to determine affordability. Employers should also try the FPL safe harbor method to see if that produces different results. The employer would be able to provide a Marketplace Notice with accurate data based upon the FPL or rate of pay safe harbor method. In using the W-2 method, don't use a 9.5% contribution especially if any adjustment would put them over during a few months



## SUMMARY OF BENEFITS & COVERAGE

**Q.** Many church plans are exempt from ERISA. Do they need to provide the Summary of Benefits and Coverage (SBC)?

**A.** Even though church plans are not subject to ERISA, they are still governed by the Internal Revenue Code (IRC) of which the ACA amended and requires the SBC.

## COBRA



**Q.** Due to carrier issues, we are changing policies and will have a 60-day gap in coverage. The new carrier agreed to enroll two COBRA continuants as long as they calculate the 18 months of continuation from the initial qualifying event. Can the continuants be put on the new plan?

**A.** One of the COBRA termination events is termination of the group health plan. If you can prove the plan was not terminated to eliminate COBRA individuals, it would not appear discriminatory. Offering them the opportunity to enroll in the new plan would be viewed as favorable. Their COBRA maximum time frame would still be measured from the day of their original qualifying event.

Six other issues to consider:

1. Did the COBRA individuals have any claims that were not paid during this time?
2. What happened to health care premiums from the no coverage period of time?
3. ACA's prohibition of rescission of coverage.
4. Is there a successor plan?
5. Is there Common Ownerships where ALL plans are not terminated?
6. Length of gap.

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