Frequently Asked Questions

In 2014, are individuals required to have health insurance?
Beginning January 1, 2014, the Patient Protection and Affordable Care Act (PPACA) requires that citizens, nationals, and individuals lawfully present in the United States maintain a minimum level of health insurance coverage or pay a tax penalty. The penalty for individuals who do not have or maintain a minimum level of health insurance for one or more months during a tax year will be assessed a tax penalty of $95 or 1% of their income, whichever is greater. These amounts will increase in later years. Individuals are responsible for penalty payments owed by their dependents.

In 2014, are employers required to offer health insurance to employees?
On July 2, 2013, the Department of the Treasury, along with the Obama Administration, delayed this requirement. It was initially set to become effective on January 1, 2014. Now, beginning January 1, 2015, employers that employ 50 or more full time equivalent employees must offer an affordable health insurance plan that provides a minimum level of benefits to full time employees and their dependents. A full time employee is an employee who works, on average, at least 30 hours per week or 130 hours per month. If an employer does not offer health insurance to at least 95% of its full time employees, the employer may be assessed a non-deductible tax penalty of $2,000 annually per full time employee (minus the first 30 full time employees) if any full time employee purchases subsidized coverage through a health insurance exchange or marketplace.

If an employer offers health insurance, but the employee cost does not meet certain affordability requirements, or the plan does not provide a minimum level of benefits (also known as minimum value), the employer may be assessed a non-deductible tax penalty of $3,000 per full time employee purchasing subsidized coverage through a health insurance exchange or marketplace, or $2,000 per full time employee (minus the first 30 full time employees), whichever is less.

What is a grandfathered group health plan?
A grandfathered group health plan is a plan that existed when PPACA was enacted – on or before March 23, 2010. Grandfathered health plans are not required to comply with a number of healthcare reform requirements, such as covering preventative care with no cost sharing and annual dollar limits. To preserve a group health plan's grandfathered status, an employer is restricted from making any significant changes to the plan as it existed on March 23, 2010. For example, a group health plan may lose grandfathered status if the employer lowers its contribution rate more than 5% from the percentage rate that existed on March 23, 2010, eliminates benefits, or increases percentage cost sharing (e.g. an increase in co-insurance percentage). Employers must also provide employees with a Notice of Grandfather Status with any plan materials summarizing benefits.

May employers continue to use stand-alone Health Reimbursement Arrangements (HRAs) to reimburse employees for medical expenses without offering a group health plan?
No. The United States Department of Labor has indicated that stand-alone HRAs will generally fail to comply with the prohibitions on lifetime and annual limits contained in PPACA. However, employers may continue to utilize HRAs that are integrated with a group health plan that complies with the prohibitions on lifetime and annual limits. See this article for more information on stand-alone HRAs.

Can an employer offer better benefits or make a higher premium contribution to one group of employees and not another? Can an employer use different waiting periods for different groups of employees?
PPACA provides that nondiscrimination rules similar to those contained in Code 105(h) will become applicable to fully insured plans. Generally, these nondiscrimination rules prohibit plans from discriminating in favor of highly compensated employees. Historically, these rules have only applied to self-insured plans. In December 2010, the IRS delayed the application of these nondiscrimination rules to fully-insured plans until new regulations could be released. To date, the IRS has not issued proposed nondiscrimination regulations for fully insured plans.

Plan design features such as varying premium contributions based on age, length of service, or compensation, or different waiting periods may be problematic when nondiscrimination regulations are released. Currently, with regard to health benefits, fully insured plans need only comply with the Section 125 Cafeteria Plan nondiscrimination regulations.

What is the maximum eligibility waiting period an employer may use under PPACA?
PPACA limits the maximum eligibility waiting period to 90 days from date of hire. Coverage must be made effective as of the 91st day. Employers who define their waiting periods as 3 months from date of hire or first of the month following 90 days of employment should take steps to revise their eligibility waiting period. See this post for more details about waiting periods: How Does Healthcare Reform Impact Stand-Alone HRAs.

Which employers are required to comply with the Form W-2 reporting requirement?
Employers filing 250 or more Form W-2s for the prior tax year are required to report the aggregate cost of employer sponsored health coverage on each employee's Form W-2 (Box 12, Code DD). The amount reported must include both employer and employee contributions. Amounts reported pursuant to this requirement are NOT taxable income for the employee.

Are employer sponsored group health plans required to cover spouses and dependent children?
PPACA does not require employer sponsored group health plans to offer coverage to spouses. However, employer plan sponsors may face penalties if coverage is not offered to dependents, defined as children under the age of 26. Similarly, if a group health plan makes dependents eligible for coverage, coverage must be extended to children under the age of 26. If a plan offers dependent coverage, eligibility for children under the age of 26 may not be restricted on the basis of marital status, residency, or student status. One special rule exists for grandfathered plans – prior to 2014, grandfathered plans may restrict children under the age of 26 from enrolling or participating in the group health plan if the child is eligible (not as a dependent) for employer sponsored health coverage from another source.

What is a health insurance exchange?
PPACA provides for the establishment of Affordable Insurance Exchanges, also called marketplaces, which are competitive marketplaces designed to enable consumers and small businesses to purchase affordable health insurance. PPACA charged the states with establishing an Affordable Insurance Exchange, but also provided that the federal government would establish Affordable Insurance Exchanges in states that declined to set up their own. As of April 1, 2013, 26 states have declined to establish state-based Affordable Insurance Exchanges. Other states and the District of Columbia have either established a state-based Affordable Insurance Exchange or have partnered with the federal government to create an Affordable Insurance Exchange.

It is anticipated that consumers and small businesses will utilize call centers, internet portals and navigators, individuals or organizations that may assist consumers in purchasing coverage through an Affordable Insurance Exchange, to apply for coverage, certify eligibility for Medicaid, and qualify for health insurance premium tax credits and/or cost sharing subsidies.

What is the Cadillac tax?

The so-called Cadillac tax references a 40% non-deductible excise tax on high cost health coverage set to become effective for tax years after 2017. This excise tax will apply to the amount by which an employee's employer sponsored group health plan coverage exceeds a certain cost threshold. Generally, self only coverage that exceeds $10,200 annually, and coverage other than self only coverage that exceeds $27,500 annually, will be subject to the excise tax. If an employer's group health plan is fully insured, it is anticipated that the insurer will be responsible for paying the tax. If an employer's group health plan is self-insured, then the plan administrator will be responsible for paying the tax.

As this excise tax does not become effective until the 2018 tax year, many implementing regulations have yet to be released. Future rulemaking is expected to provide more information on the implementation of this excise tax.

Where can I get more information about Healthcare Reform?

The government's website, www.heathcare.gov, is a great place to start when looking for information about healthcare reform. The website has information about the law, the insurance marketplaces, and the basics of health insurance.

Another great resource is the Henry J. Kaiser Family Foundation's heath reform website – healthreform.kff.org. A non-profit organization focused on health policy, Kaiser is a trusted source for information about PPACA and healthcare reform. There is even an animated video explaining health reform.