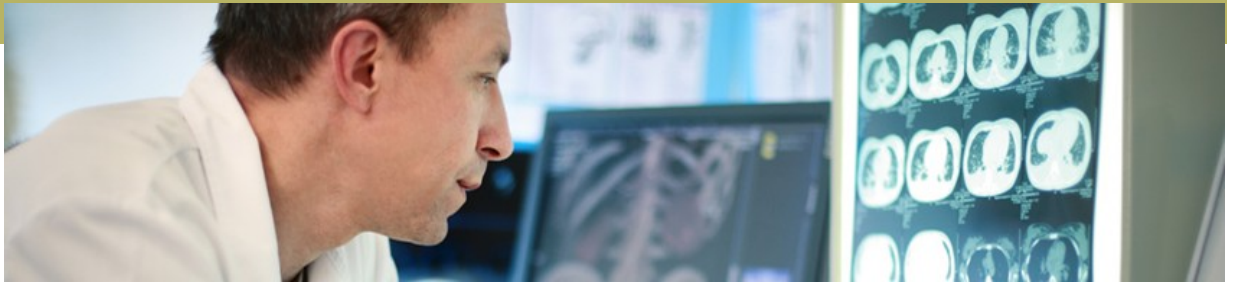




BUCKLEY LAW P.C.



Affordable Care Act 2014 Mandates & Penalties

PAY OR PLAY

Planning for the Wellness of Your Business

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Individuals

MANDATE: Provide qualifying health insurance coverage for yourself and your dependents.

- **Dependents:** Children and other relatives you can claim as dependents on your tax returns. Excludes spouses.
- **Qualifying Coverage:** Policy must provide a designated minimum level of benefits.

PLAY: OPTIONS

1. Acquire affordable, qualified health insurance coverage for yourself and your dependents through your employer.

- Only “large employers” required to offer coverage.
- Affordable coverage: employee’s contribution for employee-only tier of coverage does not exceed 9.5% of employee’s “household income.”

2. Purchase Insurance through the Exchange (Cover Oregon).

• **4 levels of coverage (the four “Metal Plans”) - choose one.**

- ◆ **Bronze** - Minimum level of qualifying coverage. Pays for 60% full actuarial value of covered health care expenses. Max out-of-pocket = \$6,050 individuals and \$12,100 per family.
- ◆ **Silver** - Pays for 70% of covered expenses. Same max out-of-pocket.
- ◆ **Gold** - Pays for 80% of covered expenses. Same max out-of-pocket.
- ◆ **Platinum** - Pays for 90% of covered expenses. Same max out-of-pocket.
- **Catastrophic Coverage:** Individuals under age of 30 or without access to affordable coverage can buy a high deductible plan which provides minimum levels of catastrophic coverage and limited preventive coverage.
- **Subsidy:** Based on income level and is only available for insurance purchased on the Exchange.
 - ◆ Income at or below 133% of Federal Poverty Level (FPL) - coverage provided through Oregon Health Plan at no cost to the individual.
 - ◆ Income between 134% FPL (\$15,397 individuals / \$31,557 for family of 4) and 400% FPL (\$45,960 individual / \$94,200 family of 4) - subsidy on a sliding scale.

3. Purchase insurance outside the Exchange.

- No subsidy available.
- Must provide minimum essential benefits - not limited to the four Metal Plans.

PAY: PENALTIES

2014 - Greater of \$95 per individual / \$285 per family or 1% of gross income. Annual Cap: Cost of Bronze Plan premium (estimated at \$5,000 for 2014).

2015 - Penalties increase to \$325 per individual / \$975 per family or 2% of gross income.

2016 - Penalties increase to \$695 per individual / \$2,085 per family or 2.5% of gross income.



Small Employers

DEFINITION: Employs an average of 2 to 49 full-time employees (including full-time equivalents) during the preceding calendar year.

- **Full-time Employee:** Employee who works or is regularly scheduled to work an average of at least 30 hours per week or 130 hours per month. Leased employees and certain classes of owners are not counted as employees.
- **Full-time Equivalents:** The sum of all hours worked by part-time employees in a given month divided by 120
- **THE NUMBER OF FULL-TIME EMPLOYEES IN 2013 DETERMINES THE EMPLOYER'S STATUS IN 2014 AS A LARGE OR SMALL EMPLOYER.**
 - ◆ **In 2013 only - Employers may use any consecutive 6 to 12 month period in 2013 to determine status as a large or small employer for 2014.**

MANDATE - NONE. Small employers are not required to offer health insurance coverage to their employees or their dependents. If a small employer offers health insurance coverage, the employer:

- Can purchase the insurance through the Exchange or outside the Exchange;
- May qualify for a subsidy for insurance purchased through the Exchange; and
- Cannot provide coverage just to owners / managers and not to other employees.

OPTIONS

1. **Offer No Benefits** - No penalty to employer. Employees have option of purchasing individual plans on the Exchange or outside of the Exchange.
2. **Offer a Group Health Insurance Plan Acquired through the Exchange.**
 - Employer must offer coverage to all full-time employees.
 - ◆ Offer 1 of the four Metal plans on the Exchange.
 - ◆ Offer 1 level of benefits (e.g. Silver Plan) and allow employees to pick among competing insurers at that level.
 - ◆ Defined Contribution approach:
 - Select a standard plan.
 - Employees can choose any plan on the same tier, 1 tier higher or any lower tier. Employee can use employer contribution toward any eligible option.
 - Employer may be eligible for a subsidy in the form of a tax credit of up to 35% (50% in 2014) of the employer's premium cost if it pays at least 50% of the employee-only premium and employs 25 or less full-time equivalents with average annual wages of less than \$50,000. Subsidy phases out between \$25,000 and \$50,000 and between 10 to 25 FTEs.
3. **Offer a Group Health Insurance Plan Acquired Outside of the Exchange.**
 - Not eligible for a subsidy but not limited to the four Metal Plans.
 - Must include minimum essential benefits.



Large Employers

DEFINITION: Employs an average of 50 or more full-time employees (including full-time equivalents) during the preceding calendar year.

- **Full-time Employee:** Employee who works or is regularly scheduled to work an average of at least 30 hours per week or 130 hours per month.
- **Full-time Equivalents:** The sum of all hours worked by part-time employees in a given month divided by 120.
- **THE NUMBER OF FULL-TIME EMPLOYEES IN 2013 DETERMINES THE EMPLOYER'S STATUS IN 2014 AS A LARGE OR SMALL EMPLOYER.**
 - ◆ **In 2013 only - Employers may use any consecutive 6 to 12 month period in 2013 to determine status as a large or small employer for 2014.**

MANDATE - PLAY. Offer qualifying, non-discriminatory, affordable group health insurance coverage to all full-time employees and their dependents.

- **Qualifying Coverage** - Plan provides minimum essential benefits, pays at least 60% of the cost of covered services and has a max out-of-pocket of \$6,050 for individuals and \$12,100 for families.
- **Affordable Coverage** - Employee cost for employee-only tier of coverage does not exceed 9.5% of employee's W-2 income (other alternative measures are available).
- **Non-discriminatory Coverage** - The eligibility requirements and the benefits provided by the Plan for highly compensated employees must not be better than the eligibility requirements and benefits for non-highly compensated employees.
- **No Subsidy Available to Large Employers; Limited Access to Exchanges.**
- **Exclusions** - Certain benefit requirements and non-discrimination provisions do not apply to certain Grandfathered Plans.

PAY - PENALTIES

1. **Offer No Coverage** - Employer fails to offer any coverage to all full-time employees and their dependents and at least 1 employee receives a subsidy to purchase coverage through the Exchange. Annual Penalty = \$2,000 x (number of FTEs - 30)
 - Example - 65 FTE employees: Penalty = \$2,000 x (65-30) = \$70,000
2. **Offer Inadequate or Unaffordable Coverage** - Coverage offered by employer either fails to meet the minimum qualifications for creditable coverage or is unaffordable and at least 1 employee receives a subsidy to buy coverage through the Exchange. Annual penalty is the lesser of the penalty for providing no coverage or \$3,000 per full-time employee receiving subsidy.
 - Example - 65 FTE employees, insurance is unaffordable for 10: Penalty = \$3,000 x 10 = \$30,000.
3. **Discriminatory Coverage** - Plan provides preferential coverage to owners and other highly compensated employees. Penalty = \$100 per day per employee discriminated against until discrimination stops. Penalty may not be enforced in 2014.