



Department of Commerce

Commonwealth of the Northern Mariana Islands
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February 6, 2014

To: Employers, Business Owners and Stakeholders

From: Insurance Commissioner

Subject: Request for Comments on Shared Responsibility for Employers Regarding Health Coverage

Many provisions of the Patient Protection and Affordable Care Act (PPACA) and the Health Care and Education Reconciliation Act (HCERA), commonly known as the Affordable Care Act (ACA), that are designed to promote expanded, affordable health coverage became effective beginning in 2014. Unfortunately however, most of these provisions, including provisions for shared responsibility for employers regarding health coverage, coverage to be offered by State Exchanges, premium tax credits to assist individuals in purchasing coverage through State Exchanges, and related provisions, do not extend to the CNMI. Strict new rules on the health insurance industry, the market reforms, extend to the territories, creating an imbalance which will likely negatively affect the CNMI health insurance industry. Though the CNMI has been working diligently to pass legislation both implementing and tempering these health insurance market reforms, while Governor Inos has requested a delay on implementing the reforms, reforming healthcare in the CNMI requires a more proactive approach.

While waiting for the Department of Health and Human Services and US Congress to either delay implementation of the ACA market reforms, extend all ACA provisions to the territories, or some combination of the two, the CNMI must prepare for the possibility that no additional assistance from the federal government will be offered to the US territories. The CNMI has decided to take action now to make the ACA an opportunity to improve the CNMI's healthcare system. We have the choice to begin tailoring the ACA to suit the CNMI or wait for the federal government to make the changes, which would likely include the federal standards for employer responsibility.

As part of the process of improving healthcare reform in our territory, the CNMI Departments of Commerce, Labor and Finance are working in concert to develop some legislative "missing pieces" of healthcare reform. One of these pieces is the employer responsibility to provide health coverage.

I. PURPOSE

This request for comments is intended to initiate and inform the process of developing a bill regarding the shared employer responsibility provisions in subtitle F, Part II of the PPACA. These provisions refer to certain standards relating to the offering of health coverage by employers to their full-time employees.

This notice invites comments and input on certain discrete issues such as who is a full-time employee and which employers should be subject to this responsibility, which could be incorporated in future proposed legislation. **The comments in response to this notice should be constructive in making recommendations on the development of legislation, and should not simply assert an opinion on whether this bill should be proposed or passed.**

II. BACKGROUND

Section 4980H was added to the Code by § 1513 of the Affordable Care Act enacted March 23, 2010, Pub. L. No. 111-148, and amended by § 1003 of the Health Care and Education Reconciliation Act of 2010, enacted March 30, 2010, Pub. L. No. 111-152.

Generally, the ACA provides that an applicable large employer is liable for an assessable payment if any full-time employee is certified to receive an applicable premium tax credit or cost-sharing reductionⁱ and either (1) the employer fails to offer to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage (MEC)ⁱⁱ under an eligible employer-sponsored plan; or (2) the employer offers its full-time employees (and their dependents) the opportunity to enroll in MEC under an eligible employer-sponsored plan that, with respect to a full-time employee who has been certified for the advance payment of an applicable premium tax credit or cost-sharing reduction, either is unaffordable or does not provide minimum value.

The federal law provides that a full-time employee with respect to any month is an employee who is employed on average at least 30 hours of service per week. An applicable large employer with respect to a calendar year is defined as an employer who employed an average of at least 50 full-time employees on business days during the preceding calendar year. For purposes of determining whether an employer is an applicable large employer, full-time equivalent employees (FTEs), which are determined based on the hours of service of employees who are not full-time, are taken into account.

III. Request for Comment

We have the opportunity to suit these provisions and definitions to the unique circumstances of the CNMI. This notice invites comments on the definition of employer, employee, hours of service, “applicable” large employer, and “minimum essential coverage” in addition to general comments and recommendations for the creation of this bill.

We understand that the success of your business is integral to the success of the CNMI economy as a whole and welcome suggestions for additional incentives for employersⁱⁱⁱ to offer health insurance coverage to employees. In other words, what barriers do you have to offering health insurance to your employees? Can you suggest solutions to these barriers?

Please submit comments and suggestions in writing to my office at the Department of Commerce, by mail to the address on this letterhead, or by email to Charlette Borja at cnmi.insurance@commerce.gov no later than close of business on Wednesday, February 19th.

We look forward to working closely with the private sector on this important piece of legislation and appreciate your input.

Sincerely,



SIXTO K. IQISOVIAR
CNMI Insurance Commissioner

ⁱ Please note that the CNMI does not have a health insurance marketplace nor any way for an individual to receive tax credits or cost-sharing reductions to reduce the cost of health insurance coverage.

ⁱⁱ As defined in 26 U.S. Code §5000A(f)(1)

ⁱⁱⁱ Such as premium reductions for using a workplace wellness plan or other incentives.