



## ComplianceConnection

August 25th, 2014



### "Aggressive" Compliance Enforcement a Top Concern for Employers

As reports of more auditors in the field from the U.S. Department of Labor circulate the industry, advisers are increasingly concerned about compliance for their employer clients. Research from the employment and labor law firm Littler Mendelson confirms another good reason that advisers should be offering compliance help: It's a top concern for employers.

In the firm's third annual Executive Employer Survey, 56% of responding employers say they're troubled by

### Your ACA Update for Employer and Individual Mandates

On July 24, 2014, the IRS released Revenue Procedure 2014-37 to index the Affordable Care Act's (ACA) affordability percentages for 2015 under the employer mandate. The IRS also adjusted upward the income level under which employees are exempt from the ACA's individual mandate.



#### Employer Mandate Adjustment

An applicable large employer's health coverage will be considered affordable for plan years beginning in 2015 under employer mandate if the employee's required contribution to the plan does not exceed 9.56 percent of the employee's household income for the year, up from 9.5 percent. This increase also applies to the three safe harbors that the IRS created in the regulations.

The reason for the increase is that the employer mandate was originally meant to take effect in 2014 but was subsequently delayed until 2015 or 2016, depending on employer size.

"rulemaking and aggressive enforcement from federal agencies." The report, released Tuesday, identified President Barack Obama's "focus on changing workplace policies" and the "divided government" as the cause of the increased scrutiny and pressure on employers to meet demands from federal agencies.

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## Medicare Part D Annual Disclosure to CMS

In addition to issuing an annual notice to participants about Medicare Part D Creditable/Non-Creditable Coverage, a Plan Sponsor also must disclose to the Centers for Medicare & Medicaid Services (CMS) whether their prescription drug benefit is considered to be Creditable or Non-Creditable Coverage. A simple online disclosure form with instructions and other guidance is



available on the CMS website. This disclosure should be done no later than 60 days from the beginning of the plan year - so it is a good practice for a Plan Sponsor to add this to their list of benefits renewal and Open Enrollment tasks to ensure it gets done. There are other circumstances under which a Plan Sponsor may have to report a change during the plan year. These situations include the termination of a prescription drug plan or a change in

## Individual Mandate Adjustment

Revenue Procedure 2014-37 also adjusts the affordability percentage for the exemption from the individual mandate for individuals who lack access to affordable minimum essential coverage. For plan years beginning in 2015, coverage is unaffordable for purposes of the individual mandate if it exceeds 8.05% of household income (as opposed to 8% originally).

This change stems from the requirement that the IRS must adjust the affordability percentage to reflect the excess of the rate of premium growth over the rate of income growth for the preceding calendar year, with each subsequent plan year being adjust accordingly.

For a copy of Revenue Procedure 2014-37, please click [here](#).

## ACA Reinsurance Fee

The Reinsurance Fee will be \$63 per covered life for 2014 (\$44 for 2015 and "to-be-determined" for 2016).

The Reinsurance Fee is assessed each year from 2014-2016, with the first payment expected in January 2015, for the 2014 benefit year.

You must submit membership counts for 2014 to HHS by November 15, 2014. Annual membership counts may be based on a number of options (e.g., an actual count for the first nine months of the benefit year, the snapshot method, the 5500 method, etc.).

HHS is expected to invoice plans for the Reinsurance Fee in two installments for each year with the first installment invoice expected in December 2014 and with payment due 30 days later.

Self-Funded plans are responsible for funding and paying the Reinsurance Fee.

### Key Dates for the Reinsurance Fee for 2014

**November 15th, 2014**  
Membership counts due to HHS

Creditable Coverage status.  
The Plan Sponsor has 30 days  
to report those events to CMS.

[For more information ...](#)

**December 2014**

HHS is expected to invoice health plans for first  
installment

**30 Days After Date of Invoice**

Payment is due to HHS

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As a continued service to you, we will distribute the Compliance Connection on a bi-weekly basis. As pertinent compliance issues arise we may distribute information off-cycle. Thank you!

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