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SMALL EMPLOYERS

2023 ACA COMPLIANCE CHECKLIST

As a broker, it often becomes your responsibility to verify that your customers are in compliance with legislation. To that end, we have created the following checklist as a summary of the general tasks associated with ACA compliance. Not all items will apply to every group, but a thorough understanding on your part will help you guide your clients correctly.

Budget Considerations:

- ☐ Use our Group Size Calculator to determine whether employer had average of 50+ FT plus FTE employees in prior year. If they did, this employer is an ALE subject to Employer Mandate the following year.
- ☐ If an ALE, use our Affordability Calculator to determine whether coverage meets one of ACA Affordability Safe Harbors in order to prevent a penalty. (Note: Affordability percentage is 9.12% in 2023).
- ☐ Ask clients about commonly-owned companies for accurate employer size determination
- ☐ Collect accurate DOBs for dependents under age 21 due to child rating structure.
- ☐ If any clients just reached the 50+ FT plus FTE threshold for the first time, check eligibility for transition relief from employer penalty Jan - Mar if MEC with MV offered April 1. (one-time relief)
- ☐ Verify your clients are no longer paying directly for/reimbursing employees for individual health plans, unless the Employer sponsors a Qualified Small Employer HRA (QSEHRA), or Individual Coverage HRA (ICHRA). (Costly Penalty)
- ☐ Discuss impact of any upcoming minimum wage increases on affordability of coverage calculations and overall company budget

Health Plan Administration:

- ☐ Verify waiting periods do not exceed the 90-day limitation
- ☐ If clients have orientation period prior to waiting period verify it is no longer than one month
- ☐ Explain to 50+ FTE clients with variable hour employees who may or may not work FT how to set up their lookback measurement, administrative and stability periods
- ☐ If client is 50+ FTE review Large Group ACA Compliance checklist for additional considerations
- ☐ Check Health FSA documents to make sure they reflect the $3,050 limit and specify either FSA grace period or $610 carryover provision for 2023. Note: Employers may allow participants to carryover the full amount leftover in their 2022 Health FSA balance into 2023. Check with your plan administrator and plan documents for more details.
- ☐ Verify all groups are meeting participation. If not, prepare for 11/15-12/15 Special Open Enrollment Window
- ☐ Verify all employers are applying 30-hour FT definition to determine eligibility for coverage
- ☐ Confirm employers aren't changing employees to 1099 to avoid the mandate
- ☐ Determine if use of PEO or staffing agency personnel increases employer size to 50+ FTE due to IRS common law employee rules

Documents for Employees:

- ☐ Deliver DOL-Mandated Notice (New Health Marketplace Coverage Options and Your Health Coverage) to new employees within 14-days of hire
- ☐ Deliver Summary of Benefits and Coverage (SBC) and Uniform Glossary at enrollment, renewal and to new hires
- ☐ Deliver 60-day notices of modification, if plan changes are made outside of renewal
- ☐ If employer had average of 50+ FT plus FTE employees in 2022, prepare to give copy of IRS Form 1095-C (for 2023) to FT employees by 1/31/2024.

If you do not understand a concept on this checklist or need assistance assuring your group has accomplished a particular goal, please contact your Word & Brown Sales Representative who can provide further support.