Health Care Reform's Individual Health Coverage Mandate

By Bill Balek, Director of Legislative Affairs, ISSA (April 9, 2013)

This is part of our series of articles intended to help guide ISSA members through their new obligations under the health care reform laws and related guidance.

Specifically, the IRS recently issued proposed regulations and Q&A's that provide additional guidance on the individual health coverage mandate imposed by the health care reform laws. This IRS guidance is summarized in the article below

<u>Individual Shared Responsibility Tax</u>

The individual health coverage mandate is officially referred to as the "individual shared responsibility tax." Effective January 1, 2014, the taxpayer is liable for the shared responsibility payment if any nonexempt individual who may be claimed by the taxpayer as a dependent for a tax year does not have ***minimum essential coverage*** in a month included in that tax year. The individual is counted regardless of whether the taxpayer actually claims the individual as a dependent. Special rules apply to individuals who are adopted or placed in foster care during a tax year. Married taxpayers filing a joint return for any tax year are jointly liable for any shared responsibility payment imposed for the year.

The monthly penalty amount is equal to 1/12 of the greater of: (1) the flat dollar amount, or (2) the percentage of income. The flat dollar amount is the lesser of: (a) the sum of the applicable dollar amounts for all nonexempt individuals without minimum essential coverage for whom the taxpayer is liable, or (b) 300% of the applicable dollar amount ($95 for 2014, $325 for 2015, and $695 for 2016, and increased thereafter by a cost-of-living adjustment. The applicable dollar amount for nonexempt individuals under 18 is one-half the regular applicable dollar amount). The percentage of income is calculated as the excess of the taxpayer's household income over the taxpayer's federal income tax return filing threshold under Code Section 6012(a)(1) multiplied by a percentage figure (1% for tax years beginning in 2014, 2% for tax year beginning in 2015, and 2.5% for tax years beginning after 2015).

The guidance makes clear that the tax:

- Applies to individuals of all ages, although exemptions apply to certain religious sects, members of health care sharing ministries, members of recognized Indian tribes, those earning below the threshold for filing a federal tax return, those certified by an Exchange as suffering a hardship, those whose premium in the Exchange would exceed 8% of their household income, incarcerated persons, and those who are not a US citizen, US national or alien lawfully present in the US (unless they are resident aliens for federal income tax purposes);

- Is owed by an adult or married couple who can claim the child or individual as a dependent;

- Is owed for each calendar month in which the individual did not have coverage for at least one day, provided that an individual qualifies for the short coverage gap exemption if the continuous period without minimum essential coverage is less than three full calendar months and is the first short gap in the individual's tax year. If the coverage gap straddles multiple tax years, then January and any ensuing months of the second year that are included in the period are ineligible for the short coverage gap exemption. An individual who lacks minimum essential coverage for a period no longer than the last two months of a tax year will be deemed to have a short coverage gap exemption for those months if the short coverage gap is the first to occur in that tax year, without regard to whether the individual is covered during the first months of the following taxable year;

- Is not owed by residents of US territories and US citizens living abroad for at least 330 days within a 12-month period; and

- Will not be enforceable through liens or levies (these are prohibited by law).

<u>Minimum Essential Coverage (MEC) Defined</u>

The IRS guidance also clarifies that minimum essential coverage (MEC) includes:

- Employer plans, including COBRA and retiree coverage (but note than an employed individual who is eligible for coverage under an eligible employer-sponsored plan offered by the individual's employer is not treated as eligible as a related individual for coverage under a plan offered by the employer of another employed individual);

- Individual eligible to enroll in continuation coverage (e.g., COBRA) is eligible to purchase minimum essential coverage under an eligible employer-sponsored plan only if the individual enrolls in the coverage);

- Individual coverage;

- Medicare, Medicaid, CHIP, TRICARE and certain veteran's coverage; and

- Grandfathered health plans.

Minimum essential coverage does not include specialized coverage (vision, dental), workers' compensation, disability or specific disease coverage. In addition, the U.S. Department of Health and Human Services may designate additional coverages as MEC. It says it is considering student health plans and foreign government coverage. Special rules are included for determining the affordability of employer-sponsored coverage and calculation of premium tax credits (taking a "family unit" approach).

The guidance notes that the State Exchanges, now known as Health Insurance Marketplaces or Affordable Insurance Exchanges, will open in October 2013. Each exchange will be able to provide certificates of exemption for many exemption categories (proposed regulations have been issued on this process), although this is not a requirement for all exemptions- individuals can claim some exemptions on their federal tax return for the year.

Future guidance will be issued on how to show MEC or an exemption on the individual's federal tax return.