



CITY OF CONCORD

REPORT TO THE MAYOR AND THE CITY COUNCIL

From: Jennifer Johnston, Director of Human Resources and Labor Relations

Date: June 20, 2016

Subject: City of Concord's Compliance with the Affordable Health Care Act

Discussion

The City of Concord has been following the Affordable Care Act (ACA) since its inception to ensure compliance with the law and to avoid penalties imposed by the law. We have filed our 1095-C forms with the IRS this calendar year as required due to our "applicable large employer (ALE)" status with zero errors. Every employee of an ALE who is eligible for insurance coverage receives a 1095-C. Eligible employees who decline to participate in their employer's health plan will still receive a 1095-C. The form identifies:

- The employee and the employer
- Which months during the year the employee was eligible for coverage
- The cost of the cheapest monthly premium the employee could have paid under the plan

If an ALE does not offer its employees insurance, the 1095-C will indicate that fact. ALEs that don't offer coverage may be subject to financial penalties. The City of Concord was amongst the first filers that the IRS received meeting the originally stated deadline of January 31st. Our ERP vendor, New World Systems and the City's Human Resources Director worked on the schema to create this transmission to the IRS electronically as required for ALE's. In addition, we were able to run a 1095-C register as an audit report to ensure that all employees required to be offered health coverage at an affordable rate were captured. Affordable coverage is defined as premium costs not exceeding 9.5% of the household income for employees. Various safe harbors were available to establish this threshold and the City has chosen the safe harbor of using the employee's W-2 earnings to ensure we are not exceeding 9.5% of their income in health insurance premium payments.

Minimum essential coverage (MEC) includes most broad-based medical coverage typically provided by employers. It does not include certain specific coverage such as those only for accident or disability income insurance, stand-alone dental and vision insurance, or workers' compensation insurance.

Employer health coverage that covers less than 60 percent of the cost of medical expense is not considered to provide minimum value. The Department of Health and Human Services created minimum value and actuarial calculators to assist employers.

Under Code Sec. 4980H, as added by Sec. 1513 of the Patient Protection and Affordable Care Act (ACA), large employers can be subject to the employer mandate penalty, and, employers will only have one opportunity to appeal the determination of an employee's eligibility for a marketplace subsidy. For 2016, if an ALE has an employee who receives subsidized marketplace coverage and the ALE does not offer minimum essential coverage to 95% of its full-time employees, it will be penalized \$167 monthly (\$2000 annually) times the number of full-time employees in excess of 30, and for an ALE that offers minimum essential coverage to 95% of its full-time employees but offers coverage that is unaffordable or does not satisfy minimum value standards, the penalty is \$250 monthly (\$3000 annually) for each full-time employee who received subsidized marketplace coverage.

The Federal marketplace, which is what New Hampshire's marketplace operates under is now only sending notices to employers whose employees qualify for and enroll in marketplace coverage and provide the marketplace with the employer's address. The City of Concord has received no notices from the marketplace.

Under ACA, we have an annual requirement to distribute a document entitled Summary of Benefits and Coverages (SBC) which details out the essential coverages that our current plan offerings provide to employees and early retirees. Retirees over 65 are covered by a Medicare Enhance plan and are not required to be issued an SBC. The City distributes this SBC annually during our open enrollment process in May and an acknowledgement of receipt is initialed by each employee and early retiree as they sign their confirmation sheets. Further, every new hire is provided a copy of the Marketplace notice which is a requirement under ACA. This form is entitled "New Health Insurance Marketplace Coverage Options and Your Health Coverage."

Harvard Pilgrim is currently our health plan provider. We offer two fully insured plans to employees. Since we are fully insured, some of the ACA requirements fall to Harvard Pilgrim as opposed to the

City of Concord if we were self-insured. For instance, Harvard Pilgrim provided all enrolled employees with a 1095 B form which would have been provided by the employer if self-insured.

The Affordable Care Act imposes a fee on issuers of specified health insurance policies and plan sponsors of applicable self-insured health plans to help fund the Patient-Centered Outcomes Research Institute. The fee, required to be reported only once a year on the second quarter Form 720 and paid by its due date, July 31, is based on the average number of lives covered under the policy or plan. The current rate is \$2.08 per covered life. Harvard Pilgrim makes these payments for the City of Concord plans.

Section 1341 of the Affordable Care Act establishes a transitional Reinsurance Program to help stabilize premiums for coverage in the individual market during the years 2014 through 2016. The 2016 rate is \$27 per covered life. The statute requires all health insurance issuers and third-party administrators on behalf of self-insured group health plans to make contributions under this program to support payments to individual market issuers that cover high-cost individuals (payment-eligible issuers). Harvard Pilgrim is responsible for this payment as well.

On a final note, ACA changed the definition of a full time employee to one who works 30 hours during a given measurement period. The measurement period to establish an employee as a full time is called the initial measurement period and can be set as a lookback period of 90 days to one year. If the monthly average exceeds 120 hours, the employee is deemed full time under ACA and an offer of coverage is required to be made. The City established a 12 month look back period. Each month, a report is run that monitors employees' hours. The report includes temps, seasonal staff, part time employees, and permanent part time employees. If an employee is averaging 29 hours a week or higher, the Supervisor is notified and the hours are monitored and/or reduced as needed to maintain a less than 30 hour average. Since we began tracking the non-full time employees, no one has exceeded more than 30 hours in a measurement period with the exception of the Golf Professional who was initially a seasonal employee. The Golf Professional is now a full time employee who is covered under our health plan. The City has examined all part time and permanent part time positions and made changes according to operational needs. Some positions that were at 30 hours were made full time to fit the needs of the department. Others were reduced to below 28 hours per week to ensure the position met the definition of part time under ACA as well as the City's ordinances. In summary, through working with our health care provider, our payroll system vendor, and our health care consultant, the City has avoided any penalties to date that may have been incurred under ACA. On the horizon, we are closely monitoring the Excise (or Cadillac) Tax which would impose a 40% tax on premiums that exceed those set by ACA. Currently, the threshold is \$27,500

for a family plan. With the pending presidential election and an implementation date of the Excise Tax in 2020, it is difficult to estimate the outcome though it will be closely monitored.

Respectfully Submitted,

Jennifer Johnston

cc: Thomas J. Aspell Jr., City Manager