



3RD QUARTER *Brief*

100 South Mason Street · Harrisonburg, VA 22801 · Main (540) 434-0316 · Staunton (540) 885-0199 · Fax (540) 434-5502

Health Care Reform Debuts

The monumental new health care legislation features sweeping changes for businesses and individuals. Here is a summary of several key provisions.

Employer responsibilities: Beginning in 2014, if an employer with 50 or more employees does not provide minimal essential coverage to an eligible employee, it may be assessed a penalty of \$2,000 per full-time employee per year (excluding the first 30 employees). But a qualified “small business” may use a special tax credit to offset employer-provided coverage. Contact your adviser to see if you qualify.

Employers offering coverage must provide certain low-income employees with a “free choice voucher” to enroll in an exchange. The voucher amount is equal to the amount the employer would pay for coverage to the

employee under its plan. Employers providing free choice vouchers are not subject to penalties for employees that receive premium credits in a state-run exchange.

An employer with more than 200 employees must automatically enroll employees in its health plan, but employees may opt out of this coverage.

Individual responsibilities: Beginning in 2014, individuals are generally required to obtain health insurance coverage. Otherwise, they must pay a tax penalty equal to the greater of \$695 per year up to a maximum of three times that amount per family or 2.5% of household income (phased in over three years). Certain low-income individuals are exempt.

Health insurance exchanges: Beginning in 2014, state-based American Health Benefit Exchanges and the

see Health Care page 2

Your Company Liable for Tired Workers?

One of your employees is burning the midnight oil, working for 24 straight hours. At long last, the employee closes up shop and heads home. Unfortunately, the employee causes a major traffic accident due to the employee’s drowsiness. As a result, another driver suffers a disabling injury.

Potential problem: The other driver’s family may sue your company, alleging that you should not have allowed the employee to drive home after working such long hours. The legal theory used to extend liability to the employer is similar to the principle that holds party hosts liable for injuries caused when they allow guests who have been drinking to drive home.

This could place an added burden on employers to investigate the condition of its employees when they leave work. For example, employers might implement a testing procedure for fatigue.

Details: In recent years, employer liability has been extended for injuries caused by employees, or to the employees themselves, relating to their employment.

The lawsuits often involve workers forced to work long shifts—usually at night—to accommodate the employer. A common thread in these cases is that the employer’s conduct was excessive in demanding the employee to work long hours. By pushing its workers to the limits of fatigue, the employer was risking an accident when the employee had to drive home. In addition, the employer may represent an easy target because of its financial situation and insurance coverage.

Of course, legal trends shift back and forth. For instance, some courts have limited claims by employees (or their estates) against employers. Reason: The injuries suffered by the employees are considered to be work-related and subject to workers’ compensation award limits. Also, state law may regulate litigation arising out of employment.

Despite these longstanding issues, employers must be cognizant of the risks. In addition, be aware that testing of employees may raise concerns over the rights of privacy.

Conclusion: If your company requires employees to

see Tired Workers page 2

Wharton Aldhizer & Weaver PLC

Health Care from page 1

Small Business Health Options Program (SHOP) will offer coverage to individuals and small businesses with up to 100 employees. After 2016, states may permit businesses with more than 100 employees to purchase coverage in the SHOP exchange.

Premium assistance credits: Beginning in 2014, premium credits will be available to certain low-income individuals and families. Eligibility will be based on household income in the tax year ending two years before the enrollment period. The credit is generally available to taxpayers with a household income between 100% and 400% of the federal poverty level.

Tax on health insurance plans: Effective in 2018, an excise tax is imposed on insurers of employer-sponsored health plans with aggregate values exceeding \$10,200 for individual coverage and \$27,500 for family coverage. Higher costs under these “Cadillac plans” may be passed on to consumers.

Benefit designs: Effective in 2014, an essential health benefits package is established that provides a comprehensive set of services, covers at least 60% of the actuarial value of the covered benefits, limits annual cost-sharing and is not more extensive than the typical employer plan. All qualified health benefits plans, including those offered through the exchanges and private plans (except grandfathered plans), are required to offer at least essential health benefits.

Preexisting conditions: Effective within 90 days of enactment and extending through 2013, a temporary national high-risk pool is established to provide health coverage to individuals with preexisting medical conditions. Individuals who have a preexisting medical condition and who have been uninsured for at least six months will be eligible to enroll in the high-risk pool and receive subsidized premiums.

Private insurance: Effective in 2010, health insurance plans are required to report the proportion of premium dollars spent on clinical services, quality and other costs. Beginning in 2011, insurers must provide rebates to consumers for the amount of the premium spent on clinical services and quality that is less than 85% for plans in the large-group market and 80% for plans in the individual and small-group markets.

Effective six months after enactment, all individual and group policies must provide dependent coverage for children through age 26. Individual and group health plans are prohibited from placing lifetime limits on the dollar value of coverage, and insurers cannot rescind coverage (except for fraud).

Beginning in 2014, individual and group health plans are prohibited from placing annual limits on the dollar value of coverage. Prior to 2014, plans may only impose annual limits on coverage as determined by the U.S. Treasury Department.

Six months after enactment, grandfathered plans are required to extend dependent coverage to age 26, prohibit rescissions of coverage, eliminate waiting periods for coverage of

greater than 90 days and eliminate preexisting condition exclusions for children. Beginning in 2014, grandfathered group plans must eliminate lifetime limits on coverage and eliminate annual limits on coverage.

Effective in 2014, waiting periods for coverage are limited to 90 days, and states have the option of merging the individual and small-group markets.

Medical deductions: Currently, unreimbursed medical expenses are deductible only to the extent the annual total exceeds 7.5% of adjusted gross income (AGI). Beginning in 2013, the threshold increases to 10% of AGI. Exception: An individual (and spouse) who is age 65 or older is temporarily exempt from this increase for 2013 through 2016.

Prescription drugs: Changes in Medicare Part D will effectively close the “doughnut hole” for prescription drug coverage.

This only a general overview. Seek assistance from your professional advisers.

Tired Workers from page 1

work unusually long hours, it makes sense to play it safe. One possibility is to provide transportation to employees or take other steps such as accommodations for an overnight stay.

Four Pillars of the HIRE Act

Here are four important tax benefits in the new Hiring Incentives to Restore Employment (HIRE) Act:

1. **Payroll tax forgiveness:** The new law “forgives” the 6.2% Social Security tax that employers must pay on wages of certain workers. To qualify, the employee cannot have worked more than 40 hours during the previous 60 days.

2. **Retained worker credit:** An employer may also claim a tax credit for continuing to employ qualified workers for at least 52 consecutive weeks. The credit equals the lesser of \$1,000 or 6.2% of the employee’s wages.

3. **Section 179 deduction:** An employer could currently deduct up to \$250,000 of qualified business assets placed in service in 2009. The new law preserves this maximum Section 179 deduction for 2010 (it was scheduled to drop to \$134,000).

4. **Tax credit bonds:** The new law enhances the “Build America Bonds” program by allowing issuers of qualified tax credit bonds to receive direct payment from the federal government.