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Employee Benefits

Seven Affordable Care Act Myths

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Have you ever heard the saying, "To a worm in horseradish, the world is horseradish"? Those of us who have been immersed in the Affordable Care Act (ACA) since March 23, 2010 can relate. It's like we are swimming in a large jar of ACA horseradish. The good news is that we know when we encounter ketchup. The following are **seven incorrect statements** (ketchup) we frequently encounter.

1. **Employers subject to Employer Shared Responsibility in 2015 can eliminate their penalty risk by providing adequate and affordable coverage to 70% of their full-time employees.**
   False. The only way to eliminate the Shared Responsibility penalty risk is to offer coverage that is both adequate and affordable to 100% of all full-time employees.

2. **The 9.5% of Box 1, W-2 income affordability safe harbor is the only available safe harbor.**
   False. There are three available safe harbors. Of these, the Federal Poverty safe harbor is the easiest to administer, and many employers already meet its requirements. Check it out.

3. **The 90-day eligibility waiting period requirement is part of Shared Responsibility.**
   No, it is part of the Market Reform Rules and is effective when the 2014 plan year begins. Also, a first of the month following 90-day waiting period is not compliant. For administrative ease, most employers are selecting first of the month following 60 days.

4. **The only place to purchase individual health policies is via an ACA exchange.**
   That's incorrect:
   - Individuals can still purchase policies off-exchange.
   - On or off exchange, the offered policies are mostly from private insurers.
   - Generally, the rates on and off exchange are the same.
   - Premium assistance for those who qualify, however, is only available on the exchange.

5. **Small businesses with existing health plans should strive to keep their employee count below 50 full-time employees + equivalents.**
   Not necessarily. Small business owners, please do not limit the growth of your business without first determining if you're at risk of paying a Shared Responsibility penalty. You might already be in great shape, and our economy needs your growing business.

6. **Before the Affordable Care Act, fully insured health plans were not subject to nondiscrimination requirements.**
   While it's true that a fully insured health plan is not yet subject to the TBD ACA nondiscrimination rules, a Section 125 plan is and has been subject to nondiscrimination rules. If an employer with a fully insured health plan allows their employees to pay for their share of the health premiums pre-tax through a Section 125 plan, the employer is subject to the Section 125 nondiscrimination rules.

7. **We don't have the final regulations, so we cannot make plans.**
   This last one is like coming across pickled herring in the horseradish jar. *Now* is the time to finalize your preparation for 2015.

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