State of Delaware
Department of Human Resources

Patient Protection and Affordable Care Act (ACA)

Frequently Asked Questions (FAQs) for Employees

1. **What is the Affordable Care Act and when was it passed?**

   The Patient Protection and Affordable Care Act (PPACA), commonly called the Affordable Care Act (ACA) or "ObamaCare", is a United States federal statute signed into law by President Barack Obama on March 23, 2010. Together with the Health Care and Education Reconciliation Act amendment, it represents the most significant regulatory overhaul of the U.S. healthcare system since the passage of Medicare and Medicaid in 1965.

   The ACA was enacted to increase the quality and affordability of health insurance, lower the uninsured rate by expanding public and private insurance coverage, and reduce the costs of healthcare for individuals and the government. It introduced mechanisms like mandates, subsidies, and insurance exchanges. The law requires insurance companies to cover all applicants within new minimum standards and offer the same rates regardless of pre-existing conditions or sex. Additional reforms were increased competition, regulation, and incentives to streamline the delivery of healthcare.

   The ACA was passed by Congress and then signed into law by the President on March 23, 2010.

2. **What does the Affordable Care Act do?**

   In general, the ACA requires most U.S. citizens and legal residents to have health insurance; creates Exchanges through which individuals can purchase coverage, with premium and cost-sharing credits; requires employers to offer affordable minimum essential coverage to full time employees or pay penalties for full time employees who are not offered affordable minimum essential coverage and who receive a tax subsidy through the Marketplace; imposes new regulations on health plans in the Marketplace; and expands Medicaid to 133% of the federal poverty level.

3. **What is the Individual Mandate?**

   The Individual Mandate is a requirement for individuals to have qualifying health coverage. Those without coverage pay a tax penalty of the greater of $695 per year up to a maximum of three times that amount ($2,085) per family or 2.5% of household income.

   The penalty was repealed effective 12/31/18.

4. **What is the Employer Shared Responsibility Penalty?**

   Beginning in 2015, employers with 50 or more full-time employees must offer minimum essential coverage to at least 70% of their full-time employees. In 2016 and beyond, employers must offer minimum essential coverage to at least 95% of their full-time employees. Full-time is defined as on average 30 or more hours per week.

   The "A" penalty would be assessed if the State does not offer minimum essential coverage to at least 70% of our full-time employees in 2015, and 95% in 2016, and one or more full-time employee receives a tax subsidy in the Marketplace. Since the State of Delaware operates on a fiscal year and not a calendar year, no penalty would be assessed until July 1, 2015. The penalty is $2,000 times the total number of full-time employees minus the first 30 workers (minus the first 80 in 2015). The penalty increases to $2,080 in 2015, $2,160 in 2016, $2,260 in 2017, $2,320 in 2018 and $2,500 in 2019.

   The "B" penalty would be assessed if a full-time employee (works on average 30 or more hours per week) is not offered minimum essential coverage or the coverage is not affordable and the employee receives a tax subsidy in the Marketplace. The penalty is $3,000 ($250 per month) times the number of full-time employees getting a tax subsidy and is effective beginning January 1, 2015. The penalty increases to $3,120 in 2015, $3,240 in 2016, $3,390 in 2017, $3,480 in 2018 and $3,750 in 2019.

5. **What is the definition of a full-time employee?**

   The ACA defines a full-time employee as someone who works on average 30 or more hours per week.

6. **Are employees who are Medicaid eligible count towards the Employer Shared Responsibility Penalty?**

   The IRS indicated in a letter dated April 2016 that employers with Medicare eligible employees who work full-time hours would be subject to the 4980H(a) penalty. The letter can be found on SBO's website at **de.gov/statewidebenefits**. If the state does not offer this employee health coverage (i.e. if this employee is a casual seasonal employee), then this employee would count toward the "A" penalty (discussed in question 4).

7. **What are the Affordable Care Act Reporting Requirements?**

   The ACA contains two reporting requirements, both of which apply to the State of Delaware beginning in 2016 for Calendar Year 2015 reporting. Section 6055 requires plans that provide minimum essential coverage to report to the IRS and to employees on their coverage. Section 6056 requires large employers to report to the IRS and to employees whether or not they are full-time and offered health coverage.

The state is using the monthly measurement method to determine an employee's full-time status by counting the employee's actual hours of service each month.

The state has developed a monthly reporting schedule that consists of 12 reporting months of either four or five weeks. (The reporting months differ from the calendar months). If during a four week reporting month, an employee works less than 120 hours, then the employee is not considered full-time during that reporting month. If during a five week reporting month, an employee works less than 150 hours, then the employee is not considered full-time during that reporting month.

8. **How will the state determine whether or not an employee is full-time, as defined by the Affordable Care Act?**

   In order for the state to determine whether an employee is full-time, the employee's organization must report all actual hours worked. Organizations enter those hours in the PHRST system.

9. **What is IRS Form 1095-C?**

   The State is required by federal law to send Internal Revenue Service (IRS) Form 1095-C to any individual who was a full-time employee for one or more months beginning in Calendar Year 2015 and any employee who enrolled in the State's Group Health Plan. The State will also send a copy of this form to the IRS.

10. **If I am a full-time employee and/or enrolled in the State Group Health Plan when will I get my Form 1095-C?**

    Form 1095-C must be mailed to employees by January 31st of each year (February 1st if January 31st falls on a weekend). The IRS extended the deadline for Calendar Year 2019 reporting until March 2, 2020.

11. **What do I do with Form 1095-C?**

    Form 1095-C is an important tax document that you should keep safely with your tax-related documents.

    You will use the information on the form to verify that you, your spouse and any dependents had coverage for each month during the year.

    This Form is not required and does not need to be attached to your tax return.

12. **Who do I contact if I lost my Form 1095-C or never received it?**

    Form 1095-C will be available on Employee Self-Service by January 31st of each year.

13. Who do I contact if I believe the information on Form 1095-C is incorrect?

Contact the Statewide Benefits Office at 800-489-8933.

14. Why did I get a letter from the State Group Health Plan requesting that I provide my Social Security Number (SSN) on a W9 form?

The State is required to solicit missing or invalid SSNs for ACA Reporting. The IRS regulations require the State to supply employees with a W9 form which can be used to provide the State with the SSN. Employees may also contact their HR/Benefits Office to provide the SSN in lieu of returning the W9 form.

15. What if I don't provide the state with my SSN?

Failure to provide the State with a valid SSN for yourself or your dependent(s) may subject you to a $50 penalty by the IRS under Section 6723 of the Internal Revenue Code.

In addition, the State is required to solicit missing or invalid SSNs for ACA Reporting on an annual basis. Failure to comply will result in additional requests from the State for this information.