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## **Healthcare Reform Remains an Important Issue for Businesses**

By **Greg Van Ness**, CEO and Member  
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*Are you confused and concerned about the impact of Healthcare Reform? If so, you're not alone.* Many companies are receiving conflicting advice from various sources, though very few of them truly specialize in Healthcare Reform. Worse yet, many companies are receiving advice from their advisors to "wait and see" and "wait until we know for sure," particularly since, in July, 2013, the Obama Administration postponed the large-employer health care mandate of the Affordable Care Act (ACA) for one year, until January 2015. The administration also recently confirmed there would be no further delay. However, many of the requirements and provisions of the ACA are still in place, with implementation timetables for 2014, or sooner. Because of the nuances and complexities of the law, strategic decisions about human capital management and the costs and tax consequences of various benefits designs need to be made now. If you haven't already done so, it's very important to get the expert advice you need to properly plan and restructure your benefits program. Such planning will help avoid financial penalties and potential disruption to your team that can result from changes to your benefits program.

### **Strategic Implications**

The Affordable Care Act makes the strategic and financial cost/benefit analysis around providing employee benefits much more complex for the business owner or key executive decision maker. How do you compare the cost of a non-deductible excise tax penalty for not offering group medical coverage to employees and sending them to the insurance exchange, versus a tax-deductible expense for providing group medical coverage that interacts with so many other areas of your income statement including FICA tax and Workers' Compensation costs? Which of your options under the law will direct the maximum return to your bottom line based on the particulars of your unique situation? How will your employees react?

Historically, employee benefits plans have served as an important form of employee compensation since their beginnings in America following World War II. Many employers purchase group medical insurance and related employee benefits to attract and retain good employees as part of their human capital management strategy, particularly in industries where competing for talent is key to achieving and maintaining competitive advantage.



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Employers with fewer than 50 full-time equivalents (FTEs) are not subject to the requirement to provide benefits under the law, but in order to attract and retain talent many still do. Even though they are outside the mandate for employers, smaller employers still need to make sure that they are tracking all employee hours worked, including part-timers, because that required calculation could push their FTE count over 50. If so, that triggers the requirement to provide benefits or suffer financial penalties for failure to comply.

Even though discrimination guidelines have not yet been clarified at the time of this article, it appears that small and large employers may have some constraints around offering benefits to only a subset of their employee population. For example, if an employer wishes to offer benefits to their key executives, they may also need to offer that same benefits plan to all full-time employees. What is clear is that once the moratorium on “pay or play” rules is lifted for large group employers over 50 FTEs, if the cost of the medical plan to their employees exceeds 9.5% of an employee’s W-2 income, or if coverage does not meet the minimum required standard and that employee acquires coverage through the insurance exchange, the employer is subject to a fine for each employee who receives the subsidy. For employers over 50 FTEs who opt out of providing benefits altogether, stiff IRS penalties will be levied based on their entire full-time employee count.

## The Insurance Exchange

The insurance exchanges are a key component of the strategic planning process for employers. Because of the federal subsidies available to employees whose annual family income is less than 400% of the federal poverty line, the exchanges are a potentially attractive option to lower-wage employed and unemployed individuals who wish to purchase medical insurance. At the same time, because of the penalties for large employers that fail to provide adequate coverage, the strategic issues such as plan structure and ways of mitigating the financial incentive for employees to pursue the exchange option are key considerations.

The individual mandates and the significant federal subsidies that apply beginning in 2014 are designed to drive enrollment into the insurance exchanges. However, unless a significant number of the younger, healthier portion of our population become insured in the insurance exchange risk pool, the cost of insurance in the exchange marketplace could increase, perhaps significantly. Similarly, adverse selection of the exchange by those who are sick or are otherwise unhealthy, and who cannot be denied coverage under the law, could also make the insurance exchanges much less affordable. Without a large healthy population in the risk pool, and unless plan design changes or medical cost containment is broadly enacted, the increased costs due to adverse selection over the near-to-medium term could be substantial. The federally subsidized portion of the cost of coverage in the exchanges will be borne directly by U.S. taxpayers.



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The State of California insurance exchange, known as “Covered California,” is scheduled to begin open enrollment in October, 2013 for January, 2014 benefits coverage. You can learn more about Covered California by visiting their website: <http://www.coveredca.com/>.

## Get Good Advice

It has never been more important for businesses to seek advice from qualified professionals about the strategic and regulatory issues that come with Healthcare Reform. One of the larger challenges that many businesses face is determining who they should trust to understand and deal effectively with this new healthcare reform environment.

Media outlets have often misrepresented this legislation, and worse yet, many in the insurance business have not taken the time and trouble to become expert resources for their clients. Unlike **Tolman & Wiker**, they do not digest the law and its regulations, stay current with updates as they’re issued, and seek expert legal counsel for guidance.

The level of detail and complexity of the law, and the pace of modifications to the healthcare regulations that have followed the ACA, make it imperative that your advisors be continuously focused and deeply educated on this subject. It’s not enough for your advisors to read occasional summaries in their trade press – this calls for experts with a demonstrated commitment to understanding the details and the strategic implications of this reform.

Our approach at **Tolman & Wiker**, for example, is to provide our clients with a combination of best-in-class employee benefits consulting advice from our own Certified Healthcare Reform Specialists, along with expert legal counsel from attorneys with deep practices in Healthcare Reform. In addition to our one-on-one work with our clients, we provide continuous updates on the legislation and its regulations to all of our clients via seminars, led by our strategic consulting team and our legal counsel, and real-time electronic communications that include the results of our ongoing research from reputable healthcare reform industry sources. We’re transparent about what is known, and also about what is still uncertain and yet to be known. We work to educate our clients on what the best alternatives for their situation look like under the law, and how to effectively manage and implement those options.

## The Future of Healthcare Reform

We don’t yet know what the long-term impacts of Healthcare Reform will look like, but it’s fairly certain that we will continue to experience change and challenge in this arena. The healthcare industry in America is estimated to represent 6% to 7% of U.S. GDP, and there are numerous stakeholders that include employees, employers, insurers, doctors, hospitals, and pharmaceutical manufacturers, just to name a few. The large population of aging baby boomers and the unfortunate trends in America toward obesity and other lifestyle-related diseases will continue to drive the costs of medical care upward for years to come.



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Unfortunately, affordability of healthcare will continue to be a challenge. To mitigate those costs and achieve competitive advantage, savvy employers are already moving their organizations toward wellness-based programs that include biometric screening and “risk-based” cost sharing incentives that drive employees to participate in exercise programs and sound nutrition that lead to longer, healthier lives, and significant reductions in medical costs.

What we know right now is that Healthcare Reform is something that impacts everyone, and, for the foreseeable future, it’s here to stay. We believe it is best dealt with proactively and strategically in order to position your company to prosper in the post-healthcare reform environment. As the largest privately held, independent insurance brokerage, benefits consulting, and risk management firm between Los Angeles and Monterey, **Tolman & Wiker Insurance Services, LLC** is uniquely capable of helping you navigate this challenging new world of Healthcare Reform. We wish all of you great success as you move forward in this new environment!



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Learn more at: [www.tolmanandwiker.com](http://www.tolmanandwiker.com)

*For more information, contact a Tolman & Wiker Employee Benefit Consultant today:*

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