

EMPLOYMENT LAW UPDATE
Tanning Salons, Donut Holes and Olympic Medals, OH MY!
The New Legislative Inspired Journey for Employers
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What is the above title in reference to? Believe it or not, all three items mentioned have a connection* to perhaps the most sweeping (and controversial) federal legislation passed in many administrations. “The Patient Protection and Affordable Care Act” or PPACA, was signed into law by President Obama on March 23, 2010. This act, along with the related reconciliation act signed soon after, (herein together referred to as the “ACT”), comprise thousands of pages of text and represent the current legal embodiment of “Health Care Reform”.

OK, so how do I distill this topic down into a newsletter article? It would be impossible to cover even the highest level overview of the most “significant” passages of that legislation here. There is of course no shortage of detailed information available regarding the ACT. Two sites with rich content are <http://healthreform.kff.org/> and www.ahip.org. Instead, here I will suggest that employers consider treating the advent of the ACT as any other significant new business initiative that must be dealt with. That is, first develop a custom strategy for your organization and from that, a plan of implementation. The following is one approach to consider.

1. **Understand the lay of the land.** Be aware of what this legislation means to your specific organization. You should first understand your Pre-ACT “profile”, as this law affects different employers and the plans they offer, at various times, in very diverse ways. For example, companies who now offer self-funded plans, may wish to carefully review the new ACT requirements and then reweigh the advantages of remaining self-funded vs. going fully insured. Additionally, it will be critical for you to understand if your plan would be considered a “grandfathered plan” under the ACT or not.
2. **Where do you want to go?** After understanding the lay of the land, the next step is to formulate “way points” you wish to reach and by when. Make sure you have the right internal and external “travel agents” (healthcare brokers, vendors, etc.) involved in this process. This legislation cuts across multiple internal areas of your organization, including but not limited to HR, Finance, Compliance, Marketing and Sales. Your team must establish a clear and interactive communication platform.
3. **Develop your road map.** Now that you know, at least for the moment, where you want to be and by when. Next step is to then strategize as to what the best route(s) would be for your organization to follow. Although ACT changes will continue to be implemented through 2018, some take effect as early as the first plan year starting on or after September 23, 2010 (135 days from the date of this article). You must prioritize which stops to make first. To do this, you will need to develop your own version of “ACTquest.com” for your customized route.
4. **Select the right vehicle.** Choose a vehicle with the appropriate options, for instance, traction control. Should you encounter an unexpected legislative curve, the foresight in having prepared for the unknown will serve you well (remember-the map is not the territory). Final step here is to make sure that all necessary passengers are on board and that your think tank is full.

5. **Begin the journey.** Start the engine, put it in drive and check your rear view mirror to make sure you will not collide with an approaching compliance issue. Since you need to be in constant command, keep your eyes on the road. If you become tired, you may be tempted to use cruise control, but don't. Pull over and let someone else on the team drive for a while.
6. **Where are we now?** It will be critical to track your progress in order to avoid going off course. Establish a dashboard of gauges to monitor metrics and distance towards your way points. Among those should be a legislative watch initiative and the monitoring of ACT Regulations as they are released. These "clarifications" are designed to address any ambiguities in the language of the ACT itself. Remember, you cannot manage what you cannot measure or navigate around what you cannot see.
7. **Are we there yet?** You should continually re-assess your originally intended destination. As time passes, detours specific to your journey will inevitably be encountered. If your intended destination needs to change, and most likely it will, be prepared to re-calculate the route. Once this is accomplished, go back to step one above and repeat itinerary.

You guessed it, there really is no "final destination", as this will be a dynamic and fluid process. Your goal is to stay between the lines and drive as skillfully as you can, so as to avoid being pulled over by the regulators. In order to maximize control over your own destiny, you must have a flexible, well thought out plan in place. Such an investment will guide you in charting a prudent course. Remember: "Hope is not a strategy".

Stay tuned...

*The ACT calls for taxes on tanning salon services, addresses the Medicare Part D Rx coverage gap known as the "donut hole" and the mandated state run healthcare exchanges will offer plans named bronze, silver and gold.

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