THE DOCTORS INSURANCE BROKER™

HCR CHECKLIST

For fully insured employers with 50+ employees

- [ ] **Are you a Large Employer?** Beginning in 2014, employers with 50 or more full-time employees and full- time equivalents will be determined to be a "Large Employer" and starting in 2015 (or 2016 for employers with 50-99 FTE's), may be subject to a penalty if they do not offer medical coverage to all full-time employees that is affordable and meets the minimum value requirement under the ACA. Controlled and Affiliated Service Groups must add total number of employees for all companies within the group to determine status.

- [ ] **Do you have part-time, seasonal or variable-hour employees?** If you have a part-time or seasonal workforce that is not entitled to enroll in your group health plan, you will need to establish a formal procedure for monitoring hours of service for this employee population. This will allow you to identify potential full-time employees by tracking hours during a specified "measurement" period and provide coverage if necessary during another specified "stability" period. Your broker can explain the "new employee" and "ongoing employee" safe harbors for tracking coverage over extended periods of time.

- [ ] **Are you reporting health insurance benefits on your employee's W-2s?** Employers who issue more than 250 W-2s are required to report the aggregate cost of coverage under their employer-sponsored group health plan in Box 12 on their employees' W-2s. This reporting is for informational purposes only and is not taxable.

- [ ] **Are you aware you need to report to the federal government on whether you offer health coverage, the total number and names of those receiving coverage, and the cost of the plan?** The first report is due in 2016 for the year 2015.

- [ ] **Are your employees aware of new rules for health flexible spending accounts (FSA)?** Your employees should be aware that 1) employee salary reduction contributions to health FSAs will be limited to $2,500 per plan year, with indexed increases allowed in future years to adjust for inflation. 2) funds from these plans can no longer be used to buy over-the-counter drugs (except insulin) without a prescription. 3) employees will pay higher penalties (20%) for withdrawing HSA funds for nonmedical expenses.

- [ ] **Are you providing written notice about Exchanges (Health Insurance Marketplaces)?** Employers must provide written notice to new employees within 14 days of their start date to inform them of their coverage options available through the Marketplace (Covered California). The U.S. Department of Labor shared a Model Notice employers may use to meet this requirement that can be found on the Department of Labor website at www.dol.gov/ebsa/pdf/FLSAwithplans.pdf *or* www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf

- [ ] **Have you provided a Summary of Benefits and Coverage (SBC) and Uniform Glossary?** Group health plans and health insurance issuers offering group or individual health insurance coverage are now required to provide a Uniform Glossary and an SBC that accurately describes the benefits and coverage under the applicable plan or coverage. The final regulations require that the SBC be provided in several instances (upon application, by the first day of coverage if there are any changes, special enrollees, upon renewal, upon request and off-renewal changes) and can be included as part of the SPD. A model SBC can be downloaded from the Department of Labor website at www.dol.gov/ebsa/pdf/SBCtemplate.pdf The SBC Uniform Glossary template is located here: http://www.dol.gov/ebsa/pdf/SBCUniformGlossary.pdf

- [ ] **Do you know the employee eligibility Waiting Period?** A "waiting period" is defined as the period that must pass before coverage for an employee or dependent who is otherwise eligible to enroll in a group health plan can become effective. In California, this waiting period is limited to 60 days from date of hire, effective January 1, 2014.

- [ ] **Do your plans comply with the Out-of-Pocket Maximum?** Any non-grandfathered plan in the individual, small group or large group market that becomes effective or renews on or after January 1, 2014, must limit annual out-of-pocket costs (for Essential Health Benefits) to $6,500 for Individual coverage, or $12,700 for family coverage.

- [ ] **Do your plans discriminate?** Delayed pending further regulatory guidance, the ACA includes a requirement that employer provided benefit plans cannot discriminate in eligibility, waiting period, benefits or contributions in favor of highly compensated employees. Failure to comply carries a penalty of $100 per individual for each day the plan does not comply.

New fees you should be aware of.

Tax/Fee	Party Responsible for Remitting	Effective Date	Amount
PCOR Fees— Used to fund the Patient-Centered Outcomes Research Trust Fund, a private, nonprofit corporation supporting clinical effectiveness research	Insurers of fully-insured health plans Plan sponsors of self-funded health plans	First fees due as early as July 31, 2013 Applies for 7 plan years.	$1.00 multiplied by the average number of covered lives (not just number of employees) in the first plan year $2.00 per covered life in second plan year Indexed by medical inflation thereafter
Transitional Research Fee— Designed to fund re-insurance payments to health insurance issuers that cover high-risk individuals in the individual market	Insurers of fully-insured health plans Plan sponsors of self-funded health plans	A three year program for 2014-16	$5.25/month ($63.00/ year) per covered life
Health Insurance Co. Fee— A fee allocated to all health insurers to help fund premiums subsidies and Medicaid expansion	Health insurers only, but many carriers are expected to shift the cost to those buying policies, by increasing their needed premium to cover risk retention	First payable September 30, 2014	Depends on the carrier's market share of all health insurance policies as among insurers with total premiums of $25 million or more Largest carriers expect fees of 2-3% of premium
Additional Medicare Payroll and Investment Taxes	Employer is responsible for withholding the Additional Medicare Tax from wages or compensation it pays to an employee in excess of $200,000 in a calendar year.	Goes into effect 2013	0.9 percent Additional Medicare Tax applies to an individual's wages, Railroad Retirement Tax Act compensation, and self-employment income that exceeds a threshold amount based on the individual's filing status. The threshold amounts are $250,000 for married taxpayers who file jointly, $125,000 for married taxpayers who file separately, and $200,000 for all other taxpayers.

☐ **Are you not offering Health Insurance Coverage to your employees?** Starting in 2015 (or 2016 for 50-99 FTE's), if an employer does not offer any coverage and one or more full-time employees receive a premium credit or cost-sharing subsidy through the Exchange, the penalty is $2,000 per year per full-time worker for each month an employer does not offer coverage to its employees. (When calculating the penalty, the first 80 full-time workers are subtracted from the payment calculation for 2015 and the first 30 full time workers in years 2016 and beyond.)

☐ **Is the coverage you are offering Unaffordable or not Minimum Value?** Starting in 2015 (or 2016 for 50-99 FTE's), if an employer offers coverage but it does not meet the affordability requirement (share of the employee's premium for self-only coverage must not exceed 9.5 percent of his or her household income) or Minimum Value (the plan's share of total allowed costs of benefits provided under the plan is less than 60 percent of those costs) and one or more full-time employees receive a premium credit or cost-sharing subsidy through the Marketplace, the penalty is $3,000 per year per employee who receives a premium credit or cost-sharing subsidy. Employers can use one of three safe harbor tests to determine affordability.

FORM W-2 SAFE HARBOR: Instead of by reference to the employee's household income, employers may use the employee's wages for this purpose as reported in Box 1 of the employee's Form W-2.

RATE OF PAY SAFE HARBOR: Employers can take the hourly rate of pay for each hourly employee who is eligible to participate in the health plan as of the beginning of the plan year; multiply that rate by 130 hours per month; and determine affordability based on the employee's monthly contribution amount (for the self-only premium of the employer's lowest cost coverage that provides minimum value). The plan is affordable if it is equal to or lower than 9.5 percent of the computed monthly wages.

FEDERAL POVERTY LINE SAFE HARBOR: Employer-provided coverage offered to an employee is considered affordable if the employee's cost for self-only coverage under the plan does not exceed 9.5 percent of the Federal Poverty Line (FPL) for a single individual.

This checklist applies to new regulations under the Affordable Care Act only and does not include additional employer compliance requirements under ERISA, HIPAA and other federal labor laws.