

Lompoc City Council Agenda Item



City Council Meeting Date: October 7, 2014

TO: Patrick Wiemiller, City Administrator

FROM: Gabriel Garcia, Human Resources Manager
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SUBJECT: Affordable Care Act Employer Shared Responsibility Provision Compliance; Adoption of Resolution No. 5950(14)

Recommendation:

Staff recommends the City Council adopt Resolution No. 5950(14) (attached), which will:

- 1) Recognize the City's commitment to comply with the Federal Affordable Care Act (ACA);
- 2) Establish a 12-month Standard Measurement Period; and
- 3) Elect the Rate of Pay Safe Harbor test for determining health coverage affordability.

Background:

Congress enacted the ACA in March 2010. The intent of the ACA is to increase the rate of health insurance coverage and reduce the overall cost of healthcare. The premise behind the legislation is the more people who have access to affordable health care, the more proactively people will seek and receive care; thus reducing healthcare costs in the long term. Implementation of the first phase of this extraordinarily complex legislation began in 2010 and will continue phase-in processes through 2018, requiring employers and insurance companies to make necessary changes to remain in compliance. Staff has been monitoring the requirements of the ACA, making necessary changes to remain in compliance, and ensuring the insurance coverage offered by the City is also in compliance. Some features already implemented include: (1) no lifetime dollar limit on essential health benefits; (2) no retroactive cancellation of health insurance coverage; (3) children up to age 26 are eligible as dependents on a parent's plan; and (4) for children under age 19 no pre-existing conditions exclusions are allowed. For the most part, these changes have only resulted in administrative modifications for the City, with the brunt of compliance being borne by the insurance companies.

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Affordable Care Act Employer Shared Responsibility Provision Compliance

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The Employer Shared Responsibility Provision of the ACA, or more commonly known as the “Play or Pay Mandate,” will assess penalties for all large employers who do not offer health insurance coverage that is “affordable” (costs employee no more than 9½% of household income), and of “Minimum Value” (the health insurance must pay 60% of the benefit costs) to full-time employees (defined as employees who work on average over 130 hours per month). This provision of the ACA, originally scheduled for January 2014, will go into effect January 1, 2015. (The Obama Administration announced a one-year delay in complying with the new reporting requirements applicable to employers. The delay also extended the imposition of penalties under the Play or Pay Mandate to January 1, 2015.)

Staff has reviewed the requirements of the ACA and determined the City qualifies as a large employer and is subject to the Play or Pay Mandate. Further, staff reviewed the City’s current contributions to health insurance for regular benefited classifications eligible to participate in the CalPERS health plans and determined the City meets the Affordable and Minimum Value criteria under the ACA.

Discussion:

While the Play or Pay Mandate has been postponed until January 1, 2015, experts are advising agencies take action to establish parameters for compliance, including a Standard Measurement Period and Safe Harbor provision.

The ACA allows employers to use one of three methods to determine if their insurance is affordable: (1) W-2 Safe Harbor (using year-end W-2, Box 1 to determine income); (2) Federal Poverty Level Safe Harbor (using the Federal Poverty Level for single household); or (3) Rate of Pay Safe Harbor (calculating the hourly wage multiplied by 130 hours). The Safe Harbor tests are all based on the cost of employee-only coverage for the least costly plan offered. Under the City’s health program contract with CalPERS, for 2015 the least costly plan would be the PERS CHOICE PPO plan.

Staff has reviewed the City’s current health insurance program, and has concluded that the City’s current health plans, offered through CalPERS, meet the Minimum Value and the Minimum Essential Coverage requirements, as defined at this time. The City currently offers health insurance and a contribution towards the cost of the insurance to all employees working in regular, benefited positions. As allowed by CalPERS, these employees and their eligible dependents are offered enrollment in a health plan effective the first of the month following their hire date. Under the provisions of the Memorandums of Understanding and relevant resolutions for all employee groups, the City’s current contribution towards the 2015 insurance premiums meets all the requirements of Affordable under the ACA.

The ACA requires a Standard Measurement Period (from 3 to 12 months) be established, to average the number of hours worked per month over a specific time

period. Staff is recommending the 12-month Standard Measurement Period be used in measuring part-time employees' hours, to allow for averaging of peak hours worked by these employees during the year. For example, a Lifeguard position working full-time hours in the summer months, but only a few hours per week during the rest of the year, would not be eligible for coverage using the 12-month Standard Measurement Period. Using the 12-month Standard Measurement Period will also allow staff to verify annually if any additional employees do not meet the ACA's full-time definition.

Fiscal Impact:

Beginning January 1, 2015, the City will be required to offer affordable health insurance to employees who meet the full-time threshold during the Standard Measurement Period through the Stability Period (a period of time that equals the Measurement Period). In other words, the City will be required to offer a contribution towards the employee-only cost of health insurance that meets the definition of Affordable for any part-time employee working full-time during the measurement period.

Under the play or pay mandate, the City must provide a health insurance plan that offers coverage that is Affordable and provides Minimum Value. The City must offer coverage to "substantially all" full-time employees and their dependent children. Failure to meet these requirements will result in penalties imposed by the Internal Revenue Service. Two penalties may be imposed for failure to meet the requirements under the ACA, which are:

- 1) The "A" penalty. This penalty occurs if coverage is not offered to at least 95% of all full-time employees or if the employer fails to offer "Minimum Essential Coverage" (any employer sponsored coverage). The annual penalty is \$2,000 for each full-time employee. The City's exposure, were this penalty to be imposed, based on 339 full-time employees, would be \$678,000. As a penalty, the General Fund would be responsible for any payment if imposed.
- 2) The "B" penalty. This penalty is \$3,000 per employee per year, for any employee that enrolls in subsidized exchange coverage if Affordable, Minimum Value insurance coverage is not offered.

The costs for affordable health insurance coverage for full-time employees and their dependents have already been approved in the budget. The cost for affordable health insurance coverage for eligible part-time employees is expected to be nominal. If the employee declines the health insurance coverage there would be no cost to the City.

The changes to ACA by both federal and state agencies may create additional costs to the City that are unknown or unforeseen at this point in time. Staff will continue to monitor the ACA and make adjustments as necessary to keep the City in compliance.

Conclusion:

The ACA is a complex law and both federal and state agencies will continue to issue regulations that could impact administration and compliance requirements. Staff will continue to monitor these requirements in order to keep the City in compliance.

Adoption of Resolution No. 5950(14) establishes the City of Lompoc will comply with all benefit administration, record keeping and reporting requirements of the ACA. Resolution No. 5950(14) also establishes recommended policy guidelines to provide consistent application of the Employer Shared Responsibility Provision.

Respectfully submitted,

Gabriel Garcia, Human Resources Manager

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Patrick Wiemiller, City Administrator

Attachment: [Resolution No. 5950\(14\)](#)