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Latest mandate delay buys time for mid-size businesses

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BY DAVID MARKIEWICZ - THE ATLANTA JOURNAL-CONSTITUTION

The White House's decision last week to give mid-sized businesses more time before they have to offer employees affordable health insurance provides a financial and strategic benefit for those employers.

For now, at least, those who don't already offer benefits don't have to take on the added cost of doing so. They also get another year to figure out how to best absorb those costs, health care consultants say.

Still, Georgia business leaders say, it's only a delay and not the bigger changes to the so-called employer mandate that some companies want.

Businesses with 50 to 99 workers don't have to offer coverage until 2016 – pushed back from 2015 – under the latest timetable for a key provision of the Affordable Care Act. It was the second postponement of that provision in less than a year. Those employers originally were required to offer health benefits starting this year, but last summer Washington put off enforcement until 2015.

Companies of that size that don't offer affordable insurance to anyone working at least 30 hours a week are to face annual penalties of \$2,000 per employee. If they offer insurance, but the plan does not provide good enough coverage or is deemed too expensive, they face annual penalties of \$3,000 for each employee who qualifies for a subsidy when purchasing insurance through the federal insurance marketplace created under the ACA.

While perhaps welcomed by employers, the latest delay will leave some employees on their own for a year longer. They can get insurance elsewhere – through a spouse, for example, or on one of the ACA insurance exchanges set up to expand the private market.



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Both the employer and individual mandates are designed to get everyone into the insurance pool while also ending insurers' ability to deny coverage due to preexisting conditions.

From businesses standpoint, the new delay provides "a brief respite," said Kyle Jackson, Georgia state director for the National Federation of Independent Business which has opposed the employer mandate. But, he said, it "continues the confusion and uncertainty plaguing small business and job creators. We need permanent solutions that help the small business sector ..."

Chris Clark, president and CEO of the Georgia Chamber of Commerce, said, "We hope that this delay will provide an opportunity to reassess some of the more onerous provisions (of the health care law)."

The number of mid-sized companies that would be affected by the latest ruling is relatively small. Businesses with 50-99 employees represent only 2 percent of all employers and they employ just 7 percent of private sector workers.

Most offer insurance already. In 2013, 91 percent of firms with 50-199 employees offered health care coverage, according to the Kaiser Family Foundation.

Yet, even employers who currently offer some coverage could benefit from the delay, said David Bottoms, senior vice-president of benefits at The Bottoms Group, a Marietta-based employee benefits consulting firm.

Those companies that provide insurance to only a portion of their employees – salaried staff, for example – would be required under the law to offer coverage to all full-time workers, a significant increase in expense. With the new delay, that added cost can be avoided for now, he said.

While companies with 50-99 employees are getting a pass until 2016, employers with 100 or more workers will get a different sort of break from the government. They will still have to offer coverage in 2015 or face a penalty, but they only have to offer it to 70 percent of their full-time employees in 2015, not to the 95 percent as was previously mandated. In 2016, it returns to the 95 percent requirement.

Employer decisions on who is offered insurance must be based on non-subjective factors such as minimum hours worked and job classification.

Businesses with fewer than 50 workers still won't have to offer workers insurance under the ACA.

David Cole, an attorney specializing in employment law with Freeman Mathis & Gary in Atlanta, said the extra year will find mid-size businesses figuring out “how they are going to absorb the additional expense of insuring more people than they have before.”

They may also have to subsidize insurance more than in the past to assure it is deemed affordable under the law.

Employers might use the extra time to test different workforce scenarios, he said. That could mean increasing the number of employees working fewer than 30 hours a week, or increasing full-timers’ hours to hold down total headcount.

Bottoms said employers who already offer coverage, “have been thinking long and hard about where to set their employee contribution levels” to be certain the plans they offer are considered affordable under the law.

“Obviously, most employers want to make sure that, if they offer coverage, they do not get dinged with non-compliance penalties on the affordability side of things if employees access coverage through the (federal insurance exchanges),” he said. “This delay now gives mid-sized employers an extra year to consider their contribution levels and consider where to set premiums after having the benefit of watching enrollment trends in the large employer market.”

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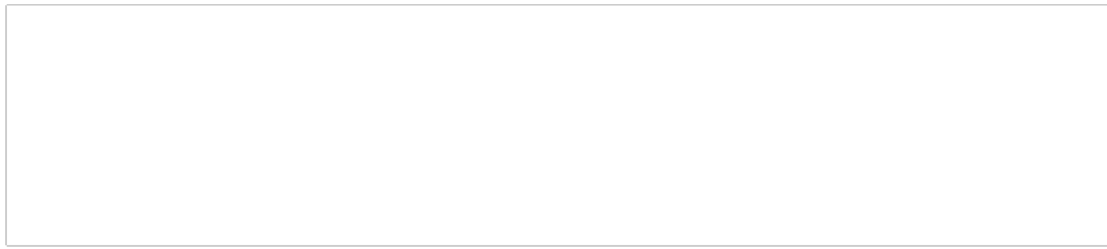
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