

Next Steps

Healthcare Reform and Nonprofit Employers

With major provisions of the Affordable Care Act (ACA) set to kick in, 2014 will be an important year for nonprofit employers. Key building blocks, such as the state Medicaid expansions and insurance exchanges, have already been laid. But in the year ahead, a host of regulations covering other elements of the ACA will begin to take effect — and nonprofit employers will need to be on their toes.

Some things to keep in mind:

- **Know what's coming.** Although the employer mandate has been delayed by one year until January 1, 2015, many other ACA provisions are effective on January 1, 2014. For fiscal year plans, they are effective the first day of the plan year following January 1. For example, lifetime and annual benefit limitations and plan provisions providing for exclusion of coverage for pre-existing conditions are not permitted after January 1, 2014.

Certain preventive service benefits must be offered through most group health plans, and nondiscrimination rules for fully insured plans are effective in 2014. Prior to the January 1 deadline, therefore, employers that offer group health plan benefits to their employees should make sure their self-funded and fully insured plans comply with the ACA provisions that will become effective in 2014. This means examining and, in some cases, amending plan and insurance contract provisions.

- **SHOP around.** Every state will have an Affordable Insurance Exchange, or “Marketplace,” beginning in January 2014. Under SHOP (the Small Business Health Options Program), individuals and small nonprofits with 50 or fewer employees can access health insurance through competitive marketplaces (formerly referred to as “exchanges”). Users can compare benefits and costs of different plans and purchase health

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insurance online. Coverage can begin starting in January 2014, with monthly start dates for annual plans thereafter.

- **Spread the cost.** In addition, low and moderate income individuals can receive premium and cost-sharing subsidies to help offset monthly premiums that will only be available through Marketplaces. Certain individuals who purchase insurance through a health exchange available in their state will be eligible for subsidies to help with the cost if their household income is below 400 percent of the federal poverty level (\$94,200 for a family of four in 2013) and they are not eligible for Medicaid.

- **Exercise your options.** If your nonprofit currently provides coverage, you can elect to stay with your existing insurer. And since enrollment in the Marketplaces is on a rolling monthly basis (beginning January 1, 2014), your

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Who's Watching Your Organization?

When it comes to nonprofits, there are plenty of prying eyes out there. Of course, state authorities are keeping their eyes peeled (approximately 45 states regulate nonprofit fundraising). And the IRS has made nonprofit governance a major focus area.

Just as curious are the watchdog organizations and media outlets looking for transparency and accountability in the nonprofits they monitor and cover.

The IRS

These days, the Internal Revenue Service is zeroing in on nonprofit governance and management practices. IRS Form 990 asks some very pointed questions about whether your organization has implemented policies relating to everything from executive compensation and conflicts of interest to document retention and destruction.

Action: Have your board and executive director review the questions in Part VI of Form 990 to determine whether your organization needs to implement or modify governance practices. Then disseminate documentation of all policies and procedures to administration, staff and your board. Finally, incorporate a review process for policies and procedures into your annual plan.

State Regulators

States consider charity regulation an important matter of consumer protection, and they back up their bark with plenty of bite. Nonprofit fundraisers that fail to register with the proper state agency before soliciting contributions in that state can be subject to fines and civil suits. The state may also revoke your right to solicit contributions there. Size doesn't matter — organizations of any size are generally required to register before raising funds from the public.

Action: Take advantage of the Unified Registration Statement (URS) to register for fundraising in multiple states. Thirty-six of the 39 jurisdictions or states that require registration accept the URS. Visit <http://multistatefiling.org> to use the form. For detailed guidance on best practices for solicitations using the Internet, consult the Charleston Principles established by the National Association of State Charity Officials (NASCO) at <http://nasconet.org>.

Charity Watchdog Groups

Groups such as Charity Watch and Charity Navigator are interested in not only how you raise funds, but what you do with donated funds and how you manage your finances. You can go a long way toward satisfying them by properly using the Statement of Functional Expenses in your organization's IRS Form 990. This is the four-column section in which you are asked to report types of expenses (such as salaries, rent, postage, grants made, etc.) and then divide and assign those costs to the functions of Program, Management/General and Fundraising.

Action: Consider following the Direct Marketing Association Nonprofit Federation (<http://nonprofitfederation.org>) guidelines for maximum transparency.

DMANF is a national association of charities and their contractors that use direct marketing to solicit donations. The group's fundraising guidelines call for the majority of revenue going to programs, a balanced view of finances, communicating your strategic plan, and following generally accepted accounting principles (GAAP) and reasonable joint-cost allocations.

The Media

Good reporters know to "follow the money." The enormous outpouring of charitable gifts in the wake of 9/11 signaled a new era in media coverage of nonprofits — sometimes harsh and critical. Inaccurate, unfair or downright hostile reporting typically happens when an organization has not been forthcoming in providing legitimate information.

Action: No matter the size, all nonprofits need a basic media relations plan — from responding in a crisis to answering inquiries about your organization and its charitable purpose. This could involve simply identifying a spokesperson and creating talking points for common media inquiries. Or, it could be as involved as developing press releases, setting up a media hotline and creating a social media strategy for getting the word out in a crisis.

At the very least, help the media tell your story. Distribute a media kit with facts on your mission, programs, sources of funds and how your activities directly benefit the public.

Know What to Share (and When)

Thanks to the digital age, there are more eyes on your nonprofit than ever before. But regulators, watchdogs and reporters all want to see the same thing: wise stewardship and sound governance. ■



Have questions about nonprofit accountability? Please contact our office today.

Healthcare Reform — The Next Steps

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nonprofit can elect to access health insurance through the Marketplace at a later date. Your nonprofit and its employees will also be able to enroll through an agent or broker, directly through the Marketplace websites or by calling a toll-free phone hotline.

- **Notify, notify, notify.** At this point, you should have provided notice to your employees of the health insurance coverage options available through the state Marketplaces. Notice was required no later than October 1, 2013, and notice is then also required for each new employee at the time of hire after that date. The notice requirement is for all employees, whether they are part-time or full-time. Note that very small nonprofits that are not subject to the Fair Labor Standards Act, such as those with less than \$500,000 in annual revenue, are not covered by this requirement.

- **Check up on HSAs/FSAs.** Nonprofit employers can continue to offer Flexible Spending Accounts (FSAs) and Health Savings Accounts (HSAs), but there are a few changes. Employee contributions to an FSA are now limited to \$2,500 a year. Small employers may offer HSAs, but they must be connected to a high-deductible insurance plan that meets the new ACA limits on deductibles and cost-sharing, offers no-cost preventive care, and covers a required set of health benefits.

- **Provide a summary.** You must provide employees with a Summary of Benefits and Coverage (SBC) from your insurer, clearly explaining what the plan covers and what it costs. Likewise, employers must report health insurance costs to employees on W-2 forms. *Note:* At this time, employers with fewer than 250 W-2 employees are exempt from this requirement.

- **Take a tax break.** Nonprofits that employ fewer than 25 employees may be eligible for a tax credit to defray

the cost of premiums if employees earn less than \$50,000 on average (this threshold will be adjusted for inflation beginning in 2014). For 2013, the Small Employer Health Credit is 25 percent for nonprofits and will rise to 35 percent for 2014. Because tax-exempt organizations do not pay income tax to the IRS, the “credit” is in the form of a refund on employee income tax withholdings.

The credit is claimed by filing a revised Form 990-T (Exempt Organization Business Income Tax Return), even if your organization doesn’t have any unrelated business taxable income. The credit is refundable but cannot be greater than the amount of the organization’s payroll taxes (income-tax withholding and Medicare tax liability).

- **Tap some resources.** Your state association of nonprofits may have helpful resources posted on its website or offer special guidance programs in your state. The National Council of Nonprofits (<http://councilofnonprofits.org>) has posted Affordable Care Act FAQs and information on the Small Employer Health Care Tax Credit. Other helpful online resources include:

- ♦ **The Affordable Care Act** – <https://healthcare.gov>
- ♦ **Small Business Administration** – <http://sba.gov/healthcare>
- ♦ **Department of Labor** – <http://dol.gov/ebsa/healthreform/>
- ♦ **Small Business Majority** – <http://healthcoverageguide.org>
- ♦ **Internal Revenue Service** – <http://irs.gov/uac/Affordable-Care-Act-Tax-Provisions-Home>

Keep It in Perspective

Finally, keep healthcare reform in perspective. Yes, 2014 will be a year of change, and there will probably be

some confusion and some cost. But the Affordable Care Act also creates new opportunities that may benefit small nonprofits that already provide health insurance, as well as those that want to start. ■

Our experienced professionals can provide the guidance your organization needs to meet the challenges and opportunities of the Affordable Care Act.



“How Many Employees Do We Have?”

For the purposes of the Affordable Care Act, your organization’s number of employees is determined by calculating your full-time equivalents (FTEs) using these steps:

- 1) Count the number of full-time employees for each month of 2013 (those working an average of 30 or more hours per week).
- 2) Count the number of hours worked by all part-time employees for each month of 2013. Divide each month’s total by 120 to calculate the number of FTEs.
- 3) Add together the total of full-time and part-time FTEs for every month. Divide the total by 12 to determine the average number of employees for 2013. ■

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Website, Facebook Page — or Both?

With limited time and resources, nonprofits often find themselves trying to choose between digital priorities; for example, building a top-notch website or setting up an engaging Facebook page.

Katya Andresen, author of *Robin Hood Marketing* and creator of the *NonProfit Marketing Blog*, suggests that it's not an either/or proposition. "It's about not just having a website, but also ensuring your champions have the tools they need to take action wherever they want, including Facebook," she notes.



To that end, consider these seven tips for creating an effective, engaging Facebook presence:

1) Have a plan. Start by knowing what you want to accomplish (e.g., recruiting volunteers, cultivating activists, stewarding your donors, etc.).

2) Post often. Post as often as your organization has fresh content — ideally, at least once a day.

3) Write for your audience. Facebook is not the place for generic press releases and boilerplate messaging. Write specifically for your Facebook followers and mix things up with interesting pictures and videos.

4) Get personal. Sure, talk about your mission, but also let followers know about your staffer's cute new

puppy. This is your chance to build a more personal relationship with your fans.

5) Start a conversation. Use every post as a tool to start two-way conversations. Ask open-ended questions and conduct polls and surveys.

6) Respond. While you don't have to reply to every comment, do try to get into the middle of comment threads to show that you're listening.

7) Analyze. Every page administrator has access to Facebook's Page Insights analytics. Use it to learn how people are engaging with the content you publish. ■



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