Compliance Complexities for the Staffing Industry

Staffing Agencies fulfill a vital role in business, allowing organizations to staff up with personnel during a peak business period, find a qualified new hires, or backfill existing positions. By the nature of their business, these agencies see a lot of candidates come in and out of their system over a period of days, weeks or months. But when it comes to tracking hours for these employees in order to comply with the Affordable Care Act (ACA) requirements for health care benefits, the agencies are finding it a challenge to capture all of the data needed for reporting.

The Flexible Nature of Temporary Employees

The staffing employees, also known as "candidates", may choose to work temporary positions for flexibility in hours or days of work. Others see staffing agency positions as an opportunity to find a full-time position at a desirable workplace. Hours for candidates can fluctuate from one day a month to months at a time, while other candidates may work sporadically throughout the year. The ACA requires the staffing agency to track all of these hours in order to determine the employee's eligibility for health benefits — a complicated process when the employee may not be punching a clock in order to track hours worked. In the past agencies may have utilized manual time sheets or simply assumed a set number of scheduled hours for the employee, but the requirements for ACA compliance stipulate that agencies track the hours systematically for all employees, regardless of the fluctuation in work schedules.

The Complications of Hourly Tracking

One complication faced specifically by staffing agencies is how to accurately track termination and rehire dates for candidates in order to offer health benefits. The return-to-service rules state that if an employee has had no hours of service for at least 13 consecutive weeks, the employer may treat this person as a new employee. This means the employer can start a new measurement period for determining eligibility for the candidate. However, if the period of absence was shorter than 13 consecutive weeks, the employer may apply an optional "rule of parity" and treat the employee as a new employee, with two provisions: either the absence is longer than four weeks but shorter than 13 weeks or the absence is longer than the immediately preceding period of employment.

In many cases, a candidate may become eligible for health benefits over the course of an assignment, but then at the end of the assignment, may not work for the agency again for months. In this case, the staffing agency may want to terminate benefits for the candidate since they are no longer working. However, the ACA requirements state that employees may not be considered terminated until they have not worked for 12 months. This means that the agency may be providing benefits to a number of candidates well beyond the end of their assignment, at significant cost. Knowing exactly when they can end these benefits is very important in terms of cost savings for the agency.

Ensuring Eligibility and Affordability

In some cases, staffing agencies offer different benefits for "internal" employees — those that work at the main office — than candidates. The different benefit plans may have different plan years, and tracking multiple plans adds to the complexity, resulting in an even larger amount of data and variables to be monitored. It's also important for the agencies to assess the plans offered candidates to ensure they meet the ACA requirements for minimum essential coverage and minimum value to avoid fines or penalties. The ACA requirements provide three safe harbors that agencies can use to determine affordability for the benefits offered to the temporary candidates.

Capturing the Data Required for Reporting

The primary concern for all organizations required to meet the ACA requirements is gathering the data needed for reporting. Timekeeping systems need to be consistent, and must capture information on hours worked as well as employee leave data. While some employee leave data may be captured in a payroll or timekeeping system, those systems were not designed with ACA reporting in mind, so accessing the data for the purpose of reporting may be difficult, and may require manual processing. Once systems are in place to gather all of the data, it's important to validate that data to ensure accuracy for reporting, since the IRS will be assessing penalties and fines on organizations that report incorrectly.

The Tango Compliance Solution

The complexities of ACA reporting are especially challenging to organizations like staffing agencies, with their ever-changing roster of candidates and assignments. Tango's experience with staffing clients has enabled us to develop best practices for these complicated organizations. Our technology provides in-depth understanding of the quality of client data, and Tango's implementation staff and ACA Concierge assist staffing agencies in tackling the challenges of hourly tracking. Tango has the technology to compile the accurate data needed for reporting, as well as a concierge staff that is fluent in the IRS regulations and requirements. We provide the expertise that HR, Benefits, and Compliance teams need, alleviating the need for additional staff or legal consultants.

About Tango

Tango is a Healthcare Benefits Optimization company with thousands of satisfied client companies across all industries. With innovative services and technology Tango optimizes healthcare benefits across the employee base, helping employees make the most effective decisions regarding benefits and creating hard dollar savings for employers. Our Healthcare Benefits Optimization suite includes online comparisons, employee education, live customer service experts, and a patented mobile platform to help employees make smart plan choices and keep them engaged year-round. Tango's Benefits Optimization Suite boosts employee confidence in smart healthcare choices and measurably bends the cost curve to keep employer benefits sustainable.

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