The Ultimate Guide to

HEALTH CARE REFORM: PLAY OR PAY?

Calculate Your
Health Benefits Savings

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Preface

Businesses of all sizes are trying to wrap their heads around health care reform (the Affordable Care Act or ACA) and what it means for their bottom line.

Employers must start planning now to:

- ✓ Understand their health benefits options,
- ✓ Navigate health care reform compliance obligations, and
- ✓ Implement a cost-saving strategy for employee health benefits by 2014.

To summarize, the Affordable Care Act includes an “employer mandate” for certain large employers to either offer health benefits or else pay a penalty. This is also called the “play or pay” requirement.

The “play or pay” requirement means that an employer (with greater than 50 full-time equivalent employees or FTEs) is required to either offer “qualified” and “affordable” health insurance to employees, or pay a tax penalty.

If an employer does not “play” by meeting the minimum requirements of offering “qualified” and “affordable” coverage, then the company is required to “pay” a penalty. The third option is to “play differently” via a defined contribution plan. All three of these strategies will be discussed in this guide.

How to Use This Guide

Should we play, pay or play differently via defined contribution? The decision is not always easy or straightforward.

You want to offer health benefits that help recruit and retain key employees, but what can the business afford? What is the best *deal* for employees? How can health care reform and defined contribution plans really lower the cost of health benefits? With the employer mandate and tax penalties, do I really have options?

This comprehensive guide provides employers, owners, CEOs, human resource departments, insurance agents, and business consultants a road map to navigate these three options, and ultimately help you calculate your health benefits savings.

This guide is written at an introductory level and assumes that you have a basic knowledge of employee health benefits.

Your Roadmap: Play, Pay or Play Differently

First, this guide will help you assess if you are an applicable large employer (i.e. if you are subject to the employer pay or play penalty). Then, we will review what it would mean to play, pay or play differently with defined contribution. Lastly, we will walk through a cost analysis you can use to evaluate your health care reform strategy and health benefits savings.

(1)
Applicable Large Employe (50+ FTE Employees)?

(2)
Understand "Play" v "Pay" vs. "Play Different"

(3)
Cost Analysis

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Health Care Reform Definitions

> *Effective January 1st, 2014, "applicable large employers" will be required to offer "minimum essential coverage" that is "affordable" to their employees. "Applicable large employers" who fail to offer "minimum essential coverage" that is "affordable" will be required to pay a "penalty" on their tax return.*

Applicable Large Employers – If a company employed an average of 50 or more full-time equivalent employees (FTEs) during the previous calendar year, it is considered an Applicable Large Employer for the current year.

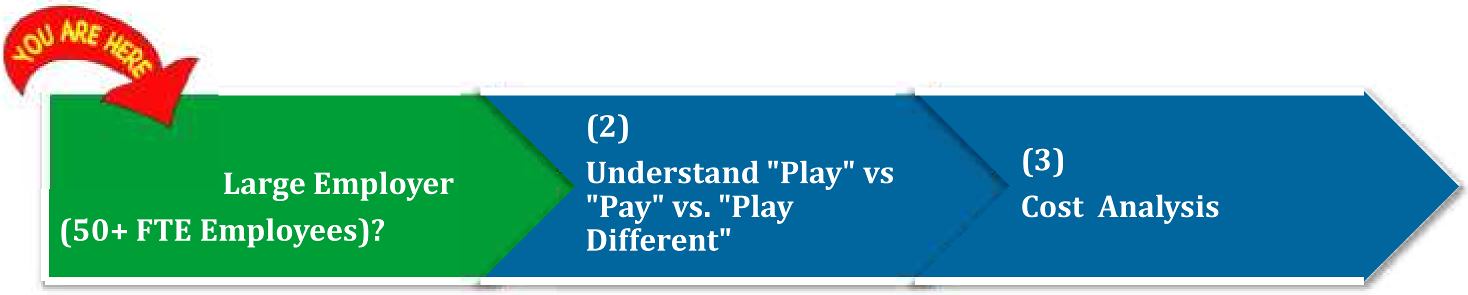
Essential Health Benefits (EHB) – These are a set of health care service categories that must be covered by certain plans starting in 2014. These will be finalized by each state's Department of Insurance.

Employer Tax Penalty – If an Applicable Large Employer decides not to offer the minimum EHB by 2014, the employer may have to pay a penalty.

Defined Contribution Health Plan – A Defined Contribution Health Plan is an alternative to group health insurance. Instead of offering affordable, minimum EHB, you pay the penalties (if applicable) and offer employees a health benefits allowance (we call this "Pure Defined Contribution"). Employees purchase policies from an insurance agent, online, or through the new health insurance marketplaces (see below). Then, the company reimburses employees for their policies tax-free up to the amount of their allowance.

Health Insurance Marketplace – Each state will offer a Health Insurance Marketplace, a new way individuals and small businesses can shop for insurance policies starting in October 2013. The key tax credits (e.g. the small business healthcare tax credits) and tax subsidies (e.g. individual health insurance tax subsidies) will *only* be available for coverage purchased through a state Health Insurance Marketplace.

1. Are You An Applicable Large Employer?



The Employer Tax Penalty (and therefore the "play or pay" decision) only applies to your company if you are an Applicable Large Employer. The ACA defines this as a company with more than 50 full-time equivalent employees (FTEs). For the majority of companies this is a simple calculation. For others, the calculation will be more in-depth.

- ✓ A company is defined as an Applicable Large Employer on a **calendar-year basis**. For example, a company could be an Applicable Large Employer in 2015, but not in 2014. Did your company employ 50 or more full-time employees on average during the preceding calendar year? If yes, then you are an Applicable Large Employer for the current calendar year.
- ✓ A **full-time employee** is defined as working on average at least 30 hours of service per week in a given month. However, for purposes of determining whether a company is an Applicable Large Employer, the company must include all full-time employees plus the full-time equivalent of its part-time employees.
- ✓ To calculate the full-time equivalent of **part-time employees**, add the number of hours worked by part-time employees in a given month and divide the total by 120. The sum of the full-time employees and the full-time equivalent of the part-time employees is the number used to determine whether a company is an applicable large employer.
- ✓ A **company is NOT an Applicable Large Employer** if you employed less than 50 full-time employees on average during the previous calendar year, or employed more than 50 full-time employees no more than 120 days during the previous calendar year due to a seasonal workforce.

> ***Simple Translation:*** *If you have less than 50 employees, you are not an Applicable Large Employer. If you have 50 or more employees, you probably are an Applicable Large Employer.*

Worksheet: Calculating the number of full-time employees (FTEs)

Here iss a worksheet to calculate the number FTEs for the Employer Tax Penalty.

1	# Full Time Employees: Number of full time employees working 30+ hours per week for the month	Total FT ______ (A)

2	Full Time equivalency of Part-time Employees: Add all hours in the month for part-time employees, then divide by 120 hours	Total Hrs:____ /120= ____(B)
3	Add answers from 1, 2 above to get the FTE for the month (A + B)	A + B = ___ (FTE for month)

4	Then total all months for the year (if hours are variable each month, complete steps 1-3 for each month)	Total for all Months_______ (C)

5	Divide total months ("C") by 12 to get Average FTE per month	C / 12 = ______ (AVERAGE)*

*If AVERAGE in step 5 is 50 or more,
then you are considered an Applicable Large Employer.

2. Understand “Play” vs. “Pay” vs. “Play Different”

In this section, we will explain three different health care reform strategies.

How to “Play”: Offer Affordable, Minimum Essential Coverage

If you decide to “play,” you will be offering each employee health insurance coverage under a group health insurance policy.

You can purchase a policy from an insurance agent or broker, online, or through the new Health Insurance Marketplaces small business “SHOP” program (if you are eligible).

To “play” (and avoid the Employer Tax Penalty) the health insurance needs to be considered minimum essential coverage and be affordable to employees.

Minimum Essential Coverage

For purposes of the Employer Tax Penalty, minimum essential coverage is the minimum amount of health insurance coverage an Applicable Large Employer must offer to avoid paying the maximum penalty. Minimum essential coverage includes a set of health care service categories that must be covered by certain plans starting in 2014.

In order to avoid paying the maximum penalty (more on penalties in the next section), you must offer each employee the ability to enroll in minimum essential coverage through an “eligible employer-sponsored plan”, which is:

1. Any plan or coverage offered in the small or large group market within a state (including small business “SHOP” marketplaces),
2. Coverage under a grandfathered health plan, or
3. A qualified governmental plan.

Affordability

The health insurance must also be affordable to employees.

An employer's coverage is considered unaffordable for any full-time employees who, in a given month, enroll in a health plan offered through the Health Insurance Marketplace and are eligible to receive federal premium subsidies (or cost-sharing subsidies).

An employee is eligible for premium subsidies through the Health Insurance Marketplace if their required contribution for their employer's group health insurance plan is greater than 9.5% of their household income.

If one or more full-time employee receives federal tax subsidies due to purchase of health insurance through a Health Insurance Marketplace in a given month, the employer must pay a monthly penalty based on the number of full-time employees who receive federal subsidies.

Quick Review: How To Play

Offer a group health insurance plan that:

- ✓ Meets minimum essential coverage
- ✓ Is affordable to employees

How to "Pay": Employer Tax Penalties

This section reviews the tax penalties Applicable Large Employers pay if they do not offer minimum essential coverage that is affordable.

REMINDER: If you have less than 50 FTEs, you are not subject to the Employer Tax Penalties.

Penalty for Not Offering "Minimum Essential Coverage"

An Applicable Large Employer who does not offer minimum essential coverage *may* not have to pay a penalty. The employer only pays a penalty if at least one employee enrolls in a plan through a Health Insurance Marketplace *and* also qualifies for premium subsidies and/or other tax credits from the federal government.

If at least one employee receives federal subsidies due to purchase of health insurance through a Health Insurance Marketplace in a given month, the employer must pay a monthly penalty based on the number of full-time employees employed during that month.

IMPORTANT: When calculating the amount of the penalty, the employer receives a credit of 30 full-time employees. (For example, a company with 50 full-time employees only has to consider 20 employees for purposes of the penalty).

- ✓ The *annual per employee penalty* is $2,000.
- ✓ To get the *monthly per employee penalty*, you simply divide the annual penalty by 12.
- ✓ To calculate the total *monthly penalty*, you multiply the # of full-time employees employed during the month minus 30 by the monthly per employee penalty. *Note: Part-time employees are not factored into the penalty calculation.*

The Employer Tax Penalty is just that… a fee.

If you choose to accept the penalties and offer an alternative health benefit solution, the fees are simply part of your overall health benefits expense.

Penalty for Not Offering "Minimum Essential Coverage" - Example

Example.

In February, ABC Manufacturing employs 60 full-time employees and does not offer minimum essential coverage. In February, at least one employee purchases health insurance through the Marketplace and receives premium subsidies from the federal government.

The *annual per employee tax penalty* <u>$2,000</u>

The *monthly per employee tax penalty* <u>$2,000 ÷ 12 = $167</u>

For purposes of this calculation, we only need to consider 30 full-time employees due to the 30-employee credit.

So, *total monthly tax penalty*: <u>30 EE x $167 = $5,010</u>

Penalty for Not Offering "Minimum Essential Coverage" – Worksheet

A. Number of full-time employees (EEs) minus 30 for month	________ FT EE's - 30 = ____ EEs (A)
B. Annual per full time employee tax penalty	$2,000
C. Monthly per full time employee tax penalty	$2,000 ÷ 12 = $167
D. Total Monthly Penalty Use EEs from (A) above x $167	(A) _____ x $167 =

Penalty if Minimum Essential Coverage Offered, But Not Affordable

An Applicable Large Employer that offers minimum essential coverage to its full-time employees may still be required to pay a penalty if the coverage is not affordable for one or more employees.

An employer's coverage is considered unaffordable for any full-time employees who, in a given month, enroll in a health plan offered through a Health Insurance Marketplace and are eligible to receive federal premium subsidies (or cost-sharing subsidies). An employee is only eligible for premium if their required contribution for their employer's plan is greater than 9.5%*. (Note: the 9.5% is based only on the employee's portion of single-coverage.)*

If one or more full-time employees receive federal subsidies in a given month, the employer must pay a monthly penalty based on the number of full-time employees who receive federal subsidies.

- ✓ The *annual per employee penalty* for not offering affordable coverage is $3,000.
- ✓ To get the *monthly per employee penalty*, you simply divide the annual penalty by 12.
- ✓ To calculate the *total monthly penalty*, you multiply the number of full-time employees who receive premium tax subsidies (or cost-sharing tax subsidies) by the monthly per employee penalty.
- ✓ The penalty is capped at a maximum of $2,000 per full-time employee per year (minus the 30 employee credit).

Penalty for Not Offering Affordable Coverage - Example

Example.

In February, ABC Manufacturing employs 60 full-time employees and does offer minimum essential coverage. In February, three (3) employees purchase health insurance through the Marketplace and receive premium tax subsidies from the federal government. Thus, the coverage is unaffordable for three (3) employees for the month of February.

The *annual per employee tax penalty* $3,000

The *monthly per employee tax penalty* $3,000 ÷ 12 = $250

For purposes of this calculation, we only need to consider the 3 full-time employees who are receiving federal subsidies.

The *total monthly tax penalty* 3 EE x $250 = $750

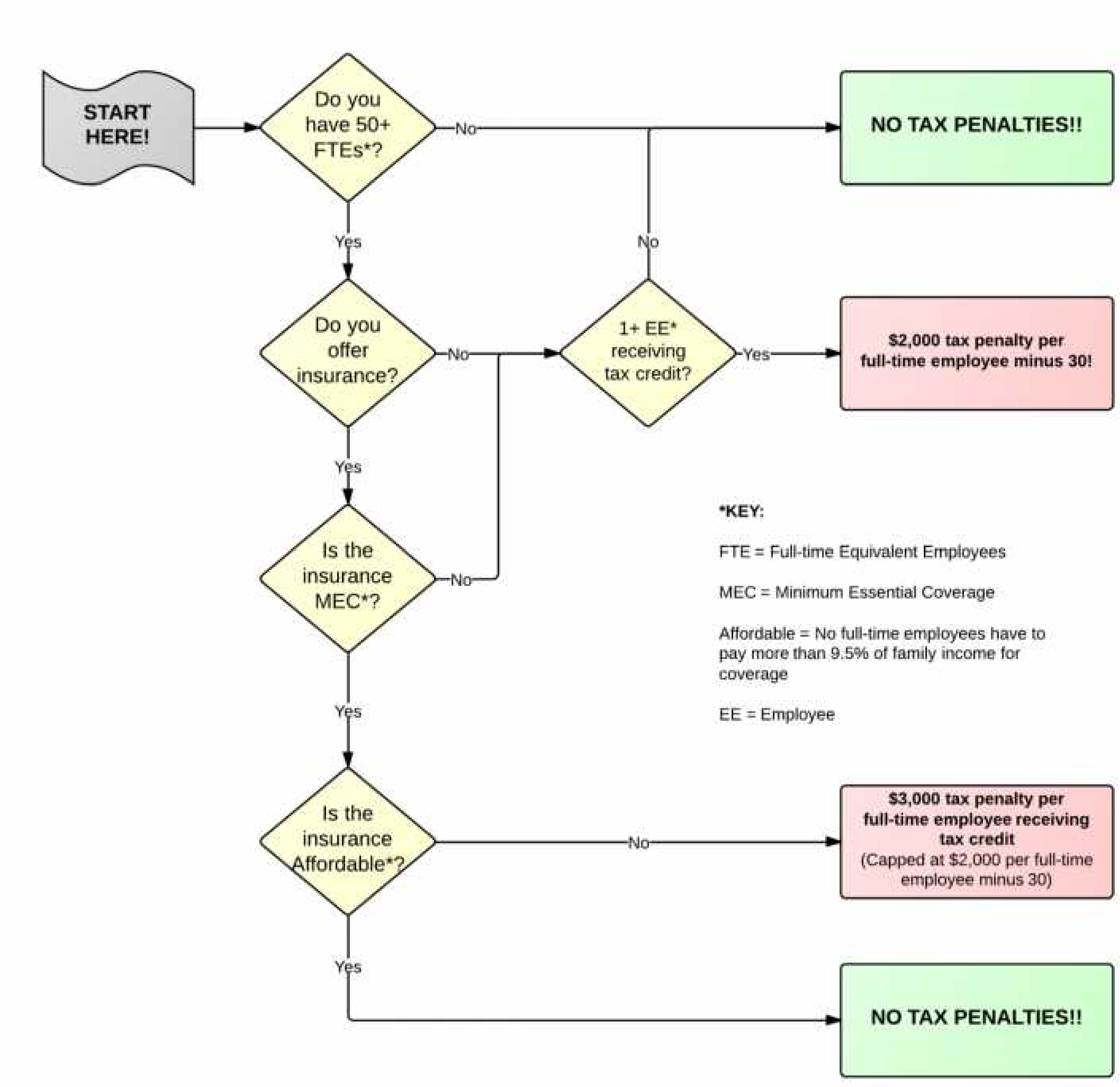
Penalty for Not Offering Affordable Coverage – Worksheet

A. Number of full-time employees who purchase health insurance through the Marketplace, and receive premium tax subsidy in month	_______ EEs (A)
B. Annual per full time employee tax penalty	$3,000
C. Monthly per full time employee tax penalty	$3,000 ÷ 12 = $250
D. Total Monthly Tax Penalty Use EEs from (A) above, x $250	(A) _____ x $250 =

Quick Review: How To Pay

- ✓ Choose not to offer group health insurance plan
- ✓ Plan to pay Employer Tax Penalties (if applicable)

Employer Tax Penalties Flow Chart



How to "Play Differently" with a Defined Contribution Health Plan

Now, we will review the third strategy -- "play differently" with a Defined Contribution Health Plan.

Defined Contribution Strategy

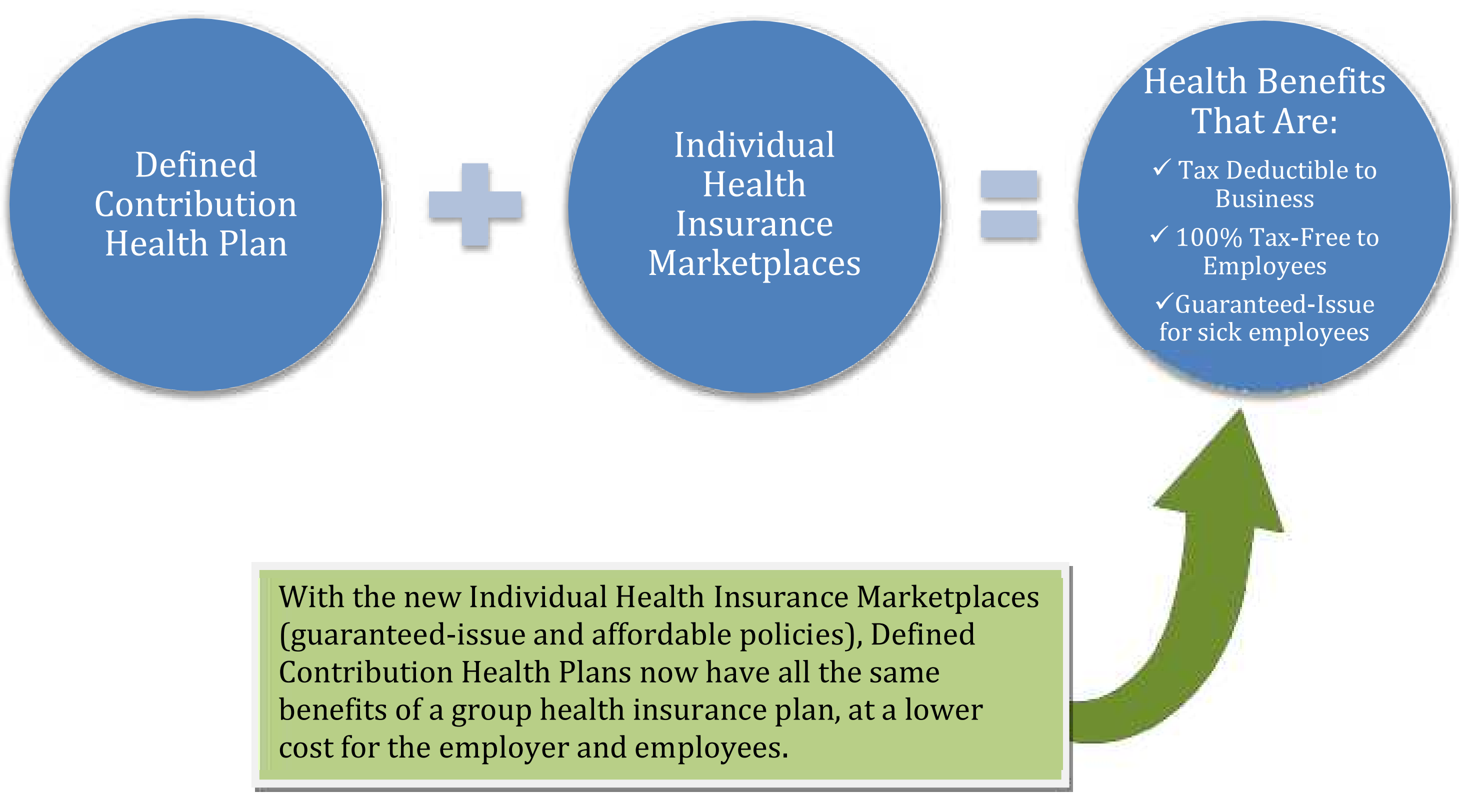
With a "Pure" Defined Contribution strategy, your company would intentionally:

1. Choose not to offer a group health insurance plan,
2. Plan to pay tax penalties (if applicable),
3. Provide employees a tax-free monthly allowance for healthcare expenses,
4. Encourage each employee to purchase coverage through the new Individual Health Insurance Marketplace and take full advantage of the new tax subsidies.

Why Would Your Company Do This?

Your company would consider this strategy because it will likely:

- Save employees and employers a combined 50% on health insurance costs.
- Allow employees a full choice of health insurance plans.
- Provide employees with better, more flexible health insurance options.



How Pure Defined Contribution Works

Rather than paying the costs to provide a specific group health plan benefit (a "defined benefit"), employers fix their costs on a monthly basis by establishing a Defined Contribution Health Plan. Defined Contribution Health Plans are a new alternative to employer-sponsored group health insurance plans. **Defined Contribution Health Plans by themselves are not health insurance plans and therefore do not satisfy the employer mandate of minimum essential coverage.**

With a Defined Contribution Health Plan:

- ✓ Your company gives each employee a fixed dollar allowance (a "defined contribution") that the employees choose how to spend.
- ✓ Employees purchase their own individual policy directly from a health insurance company of their choice, or through the new Health Insurance Marketplace (typically, this saves the employee 25-50%).
- ✓ Employees use their defined contribution to reimburse themselves for their individual health insurance costs or other medical expenses such as doctor visits and prescription drugs.

Defined Contribution Health Plans are programs that allow employees to be more involved in their health care choices, and allow your business and employees to take advantage of health care reform and actually save money on health benefits.

Individual Health Insurance Marketplaces & Tax Subsidies

To fully understand how a Defined Contribution Health Plan can save money for you and your employees, you need to understand how the new Individual Health Insurance Marketplaces and employee tax subsidies fit into the strategy.

Individual Health Insurance Marketplaces

The Individual Health Insurance Marketplace will be a new way your employees can shop for individual health insurance premiums. The Individual Health Insurance Marketplace will open in October 2013, for coverage starting January 1, 2014. The Individual Health Insurance Marketplace will provide:

- **Individual Plan Standardization**: Standardizes individual health insurance products within specific metal tiers so individuals can compare “apples to apples.”
- **"Unbiased" Individual Plan Comparison**: Allows individuals to compare all plans in one "unbiased" place.
- **Tax Credit Administration**: Determines tax credit eligibility/amount and facilitates advanced payment.

Employee Tax Subsidies

Beginning in 2014, massive tax credits will become available to help individuals buy health insurance coverage through the new state Health Insurance Marketplaces. If an employee is eligible, these tax credits will cap the cost of his or her family's health insurance at 2 - 9.5% of income.

What's the catch? The catch is that these tax credits are only available via a state Individual Health Insurance Marketplace. As a result, starting in 2014, many employees will be able to secure less expensive health insurance coverage on the individual market. These policies will also be guaranteed-issue. However, for individuals to be eligible for a premium tax credit, it requires the business to not offer health insurance coverage.

How much will individual policies cost employees through the Health Insurance Marketplace? It depends on household income and size:

Household Income & Size are Key Variables for Individuals

2013 FPL Guidelines

Household Size	100% of FPL	400% of FPL	Premium Cap Range
1	$11,490	$45,960	$0 - $363.85 / mo
2	$15,510	$62,040	$0 - $491.15 / mo
3	$19,530	$78,120	$0 - $618.45 / mo
4	$23,550	$94,200	$0 - $745.75 / mo
5	$27,570	$110,280	$0 - $873.05 / mo
6	$31,590	$126,360	$0 - $1,000.35 / mo
7	$35,610	$142,440	$0 - $1,127.65 / mo
8	$39,630	$158,520	$0 - $1,254.95 / mo

Average Group Single Premium in 2012 was:

$468

Average Group Family of 4 Premium in 2012 was:

$1,312

Source: Kaiser/HRET Survey of loyer-Sponsored Health Benefits, 2012.

How Much Does Pure Defined Contribution Cost?

The cost of a Defined Contribution Health Plan is entirely in your company's control, and depends on 2 key factors:

1. The total amount of allowances you are giving employees on a monthly (or annual basis).
2. The total amount of tax penalties you are required to pay on a monthly (or annual basis).*

   **If you have less than 50 FTEs, #2 does not apply.*

If your business has less than 50 FTEs, a Defined Contribution Health Plan may be a "no-brainer" for you and your employees.

However, if your business has more than 50 FTEs, you may need to conduct a Defined Contribution cost analysis to determine if a Defined Contribution Health Plan (along with the tax penalties) is more cost effective than a traditional group health insurance plan.

Quick Review:

How To Play Different

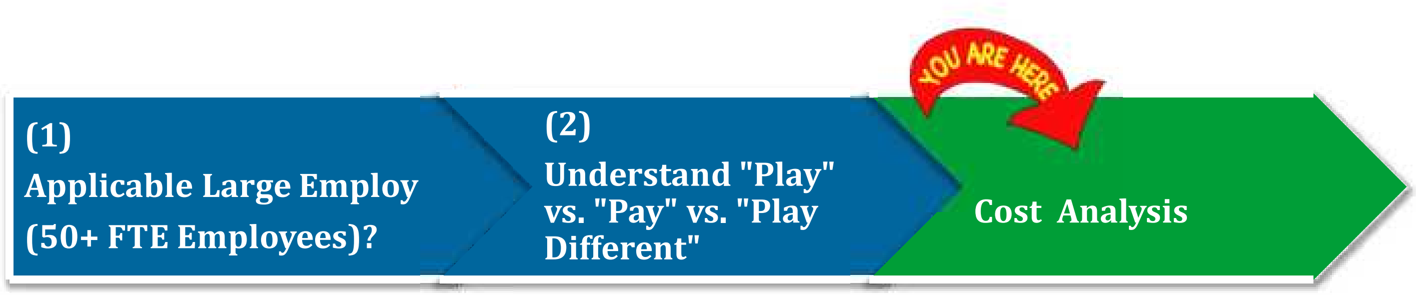
✓ Choose not offer a group health insurance plan

✓ Plan to pay tax penalties (if applicable)

✓ Provide employees a tax-free monthly allowance for healthcare expenses (a Defined Contribution Health Plan)

3. Defined Contribution & Employee Health Insurance Cost Analysis

Now that you understand the three options, how will you decide your strategy? It's simple: complete an employee health insurance cost analysis.



Cost Analysis Worksheet

Compare the cost of a qualified, affordable group health insurance plan ("Play") vs. penalties ("Pay") vs. a Defined Contribution strategy ("Play Different").

	"Play" Qualified Minimum Essential Coverage	"Pay" Penalties	"Play Different" Defined Contribution
How to Calculate Your Cost	Obtain group health quotes from your insurance agent, online or through the new "SHOP" Marketplace (if eligible).	See worksheet on page 12 to calculate your applicable penalties.	See page 19. In summary: • Define any amount to contribute to Defined Contribution Health Plan. • Add applicable penalties (see page 12).
Your Calculations / Notes			
Your Annual Cost	$ ___________________	$ ___________________	$ ___________________

Cost Analysis Example

Here is an example cost analysis for one manufacturing company in Colorado with 60 full-time employees.

	"Play" Qualified Minimum Essential Coverage	"Pay" Penalties	"Play Different" Defined Contribution
How Cost Was Calculated	In this example, we've used the average group health insurance rate for employer-sponsored health insurance in Colorado.	Employer Tax Penalties were calculated using the worksheet on page 11.	In this example we based their defined contribution allowance on current individual health insurance rates in Colorado.
Calculations	$5,212/EE Annual Rate $4,153 Annual Employer Contribution ($346/month) $1,059 Annual Employee Contribution ($88.25/month) Annual Cost for 60 EE = $ 249,180	EEs is fulltime EEs minus 30 60 EE – 30 = 30 Annual per employee tax penalty $2,000 Total Annual Penalty $2,000 x 30 EES = $60,000	Penalties $60,000 (calculated at left) Defined Contribution Allowance $150/monthly allowance* $1,800/annual allowance Total Defined Contribution Allowances $108,000 **The average individual policy in Colorado is $194. This allowance would cover most employees' policies, with them contributing on average $44/month… less than at the group level rate of $88/month.*
Company's Annual Cost	$ **249, 180**	$ **60,000**	**$ 168,000**

In this analysis, the Colorado manufacturing company was able to offer the same level of health insurance coverage (even better for some employees), while saving $81,180 – even with paying the Employer Tax Penalties.