

Obamacare covers work visa holders

Lubna Kably| TNN | Updated: Jan 20, 2014

MUMBAI: Obamacare, as President Barack Obama's healthcare overhaul is popularly called, not only covers American citizens but also foreigners working in the US. As a result, Indian migrants in the US will have to adhere to the requirements of the Affordable Care Act (ACA), which came into effect from January 1.

According to UN statistics, there are over 20 lakh Indian migrants in the US.

Under the ACA, foreign workers such as those carrying H-1B or L-1 visas, and legally residing and employed in the US, are subject to the same medical insurance rules as US citizens. All individuals covered by the ACA provisions must maintain a 'minimum level' of medical insurance coverage for themselves and their dependents or face a penalty tax (known as the individual mandate).

Moreover, ACA provisions have implications not only for American firms but also Indian companies that have deputed employees to the US or have branches or subsidiaries there.

Large employers - defined under the ACA as those with 50 or more full-time employees - have to provide sufficient health coverage to their employees or else face a penalty tax (known as the employer mandate). This comes into effect next year.

Many large companies that TOI spoke to have already taken steps to ensure that their deputed employees understand the ramifications of the ACA. They are also taking steps to ensure that insurance plans provided to their employees meet ACA's requirements. However, smaller companies that earlier did not provide medical coverage to staff or had made it optional are grappling with some issues.

"A foreign national may be without 'minimum essential coverage' only for up to three months without being subject to the penalty," explains Helen H Morrison of EY (US).

This penalty for 2014 is \$95 or 1% of the household income, whichever is higher - it will increase with each passing year.

A 'minimum essential coverage' under the ACA includes an employer-sponsored group

medical coverage or eligible insurance plans purchased by the employees directly. "Most employers use private health insurance plans to provide coverage to individuals deputed to the US. These plans would generally be treated as providing minimum essential coverage and the deputed foreign national would not face the individual mandate penalty," says Morrison.

US-based attorney Navneet S Chugh explains, "Many employers require that employees contribute a certain portion of the medical insurance cost. Before the ACA came into effect, an employee could opt out of the medical insurance plan at work to avoid paying for his share, but if they now opt out they will face penalties for not having medical insurance." "If the employer requires a significant contribution from the employee for meeting the health coverage, the employee could opt out of the employer-sponsored plan and get an individual health plan through the US state exchange. The employee could even get a federal credit to pay for such insurance costs," says Chugh.

Every state in the US has made available access to an online insurance exchange providing a range of affordable qualified health plans. Foreign nationals on work visas and foreign students can enroll for such plans. The current tranche of enrolment is available up to March 31.

However, if the employer-sponsored medical coverage meets the value test and is also affordable (ie single coverage doesn't cost an employee more than 9.5% of household income), then the employee cannot opt for a subsidized plan via the insurance exchange.

Medicaid, which is sponsored by the US government, is available to Indian migrants only in the low-income category of green card holders and who have resided in the US for more than five years.

"Large employers operating in the US need to examine whether the healthcare coverage offered by them meets the required criteria and is adequate so as to avoid the penalty tax," says Morrison.

"Employers need to cover at least 60% of the cost of medical insurance. If the employer doesn't want to provide medical insurance, they need to tell the employees to obtain their own medical coverage via the state exchanges and work out a cost-sharing agreement," explains Chugh.

An insurance plan taken in India for meeting US medical costs could also be considered eligible for 'minimum essential coverage' provided such a plan covers all the benefits required under ACA, which include outpatient care and emergency services.

"The insurance plan we provide currently does not include outpatient care, thus we are taking steps to widen the coverage. We will decide whether to split the additional cost with the employee," says an HR official of a private software engineering company. As penalties for the employer are higher (could be as much as \$3,000 per full-time employee), all Indian companies are gearing up for full compliance of ACA provisions.