CITY OF HAYWARD
HEART OF THE BAY

DATE: October 25, 2016

TO: Mayor and City Council

FROM: Director of Human Resources

SUBJECT

Report Regarding Updates to the Patient Protection and Affordable Care Act and Impacts to the City of Hayward

RECOMMENDATION

That the City Council reviews and comments on this report regarding updates to the Patient Protection and Affordable Care Act and impacts to the City of Hayward and its employees.

BACKGROUND

In March 2010, President Obama signed comprehensive health reform, the Patient Protection and Affordable Care Act (PPACA), into law with the stated intention of assuring that all Americans have access to affordable health insurance by increasing the quality and affordability of health insurance.

The goal of the PPACA is to achieve a necessary transformation of health insurance in the United States. Three major elements to assist in achieving this reform were identified: 1) shared responsibility with employers; 2) complete insurance market reform; and 3) enrollment by all Americans in health coverage. While Human Resources staff is actively monitoring and participating in regional discussions and efforts to reform the health insurance market, this report will focus on the impacts of shared responsibilities of the employer as mandated by the PPACA.

DISCUSSION

The City of Hayward contracts with the California Public Employees Retirement System (CalPERS) as its plan administrator to provide medical benefits for nearly 875 employees and 600 retirees and survivors enrolled in medical benefits. As the City's administrator, CalPERS has actively monitored the law and implemented changes accordingly. For example, new fee requirements have been factored into the health plan premiums, eliminating the need for employers to take action related to these provisions of the PPACA.

Table 1 summarizes the major components of the PPACA impacting the City and is followed by a detailed discussion of each.

Table 1: Components of PPACA impacting City of Hayward

Provisions of Affordable Care Act	Responsible Party	Effective Date	Cost to City
Pay or Play – Employers with more than 50 employees must offer "minimum essential coverage" to "substantially all" full-time employees and dependents or pay tax penalties	City of Hayward	1/1/2015	Up to $2,000/Per Employee Per Month
IRS Reporting – Employers are required to report information about coverage to covered employees and to the IRS; CalPERS is required to provide enrollment information (for employees and retirees) to covered individuals and to the IRS; individuals are required to show proof of coverage for self and dependents	City of Hayward; CalPERS; and individuals	2016	Approx. $12,600 Annually
Cadillac Tax – a 40% excise tax on health plan premiums exceeding the estimated thresholds in 2020[1] ($10,200 Single/$27,500 Family)	City of Hayward	Delayed to 2020	Approx. $568,000 Annually

[1] Thresholds are as of 2016 and are subject to change

<u>Pay or Play – Employer Shared Responsibility</u>

Pay or Play is a requirement for large employers to offer comprehensive and affordable benefits to "substantially all" full-time employees. A large employer is defined as having 50 or more full-time employees and full-time employees are those employees working 30 hours or more per week, or 130 hours or more per month. As a large employer, the City of Hayward must offer comprehensive and affordable benefits to all full-time employees.

In order to comply with the requirements of Pay or Play, the health plans offered to employees must be affordable. For a plan to be considered "affordable" under the PPACA, it must pass a "Safe Harbor Test." Safe harbor tests are all based on the cost of single coverage for the least expensive plan offered by the employer. To pass the safe harbor test, the employee cost of the plan must be less than 9.5% of either: 1) The Federal Poverty Level; 2) Employees hourly wage x 130; or 3) W-2 Earnings. The City has the right to determine which test to apply to its employees to determine affordability and can apply different tests to different employee groups. Table 3 shows examples of the various safe harbor calculations using City of Hayward data.

Table 3 Safe Harbor Calculations[2]

Safe Harbor Test Methodology	Test Calculation	Max Annual Employee Contribution	Max Monthly Employee Contribution
Federal Poverty Line (138% in CA)[3]	$16,242 x 9.5%	$1,542.99	$128.58
Rate of Pay	$15.84[4] x 130 x 9.5%		$195.62
W-2 Earnings	$33,727[5] x 9.5%	$3,204.08	$267.01

[2] Safe Harbor tests apply to employee only coverage
[3] Increased due to Medicaid availability in California
[4] Lowest paid, full-time City of Hayward position, step A.
[5] Lowest paid, full-time City of Hayward position, Step A, bilingual pay, annualized

The City offers at least one "affordable" health plan that is less expensive than the safe harbor limits based on all three of the methodologies, regardless of employees' negotiated contributions. Some of the "affordable" health plans offered by the City include PORAC, PERS Select, Anthem Select, and Kaiser where employee contributions range from $34.95 to $44.46 monthly for those with a five percent contribution rate. For employees with a ten percent cost share, contributions for these same plans range from $69.90 to $74.65 monthly.

In addition to being affordable, an employer-based plan must offer coverage that meets "minimum value" standards. A health plan meets the minimum value standard if it is designed to pay at least 60 percent of medical costs; the individual pays the other 40 percent. All CalPERS plans offered by the City of Hayward are in the 80 to 90 percent minimum value range and thus far exceed the minimum value standard established by the PPACA. Therefore, the medical plans offered by the City of Hayward will meet all the requirements set forth under the PPACA and thus avoid a tax penalty.

The City of Hayward is also in compliance with the requirement that the affordable plans be offered to substantially all full-time employees. The requirement for 2015 was that employers offer minimum essential coverage to at least 70 percent of all full-time employees. For 2016, this increased to 95 percent of all full-time employees.

To determine if the City is compliant, Human Resources staff periodically conducts an analysis of staffing. In 2014, the City made changes to relevant policies and procedures to ensure that the City is in compliance with the Pay or Play requirements. Some of these changes include a staffing model that limits the hours for temporary employees to 25 hours or less, weekly; in instances where an exception is made due to operational needs, temporary employees hired to work 30 hours or more per week, are offered coverage equivalent to that of a regular employee in a similar position as required by the PPACA.

Moreover, the City uses employment agencies to fill temporary assignments. This allows for more flexibility and gives departments the option to have temporary workers working more than 30 hours per week because the agency is the actual employer and the City is not required to provide health care coverage or other benefits. Agency employees are used to cover vacancies, illness, leaves, or limited term assignments, and the agency offers medical insurance in compliance with the PPACA. In exchange for the reduced liability, the City pays the agency a mark-up price. For part-time and temporary employees that are not hired through an agency, Human Resources implemented an internal tracking system to monitor temporary assignments and ensure temporary workers are not reaching the 30-hour weekly or 130-hour monthly thresholds. The City also contracted with a third party vendor, ACAWorks, to assist with tracking hours and the determination of projected eligibility based on hours worked.

<u>IRS Reporting</u>

The PPACA created two reporting requirements effective in 2015: Minimum Essential Coverage (MEC) reporting, and Applicable Large Employer (ALE) reporting. MEC reporting requires providers of MEC to report information about their coverage to covered individuals and to the Internal Revenue Service (IRS). ALE reporting requires the applicable large employers, those subject to Pay or Play, to identify their full-time employees, and report on the coverage they are offered, ensuring affordability and minimum value.

The deadline for IRS reporting was extended from February 1, 2016 to March 31, 2016. Because the City contracts with CalPERS for medical coverage, CalPERS and its respective medical carriers are responsible for reporting on MEC. The City is responsible for ALE reporting to employees and the IRS. Because of the complexity associated with reporting, preparation and submission of these forms would require additional training and hours of labor between Human Resources, Finance and Information Technology staff. As a result, management personnel opted to outsource this task to a third party vendor, ACAWorks, who has an established software program designed to complete the forms. During the last four months of 2015, Human Resources staff worked in collaboration with Finance and Information Technology personnel to provide the necessary reporting information for 2015 in a timely fashion. The City is in full compliance with its IRS reporting requirements under the PPACA.

<u>Cadillac Tax</u>

The Cadillac Tax, previously scheduled to go in effect in 2018, has been delayed until 2020. It is a 40 percent excise tax on health care premiums in excess of the limits formerly established by the government for 2018 ($10,200/individual and $27,500/family). These thresholds are benchmarked to the Federal Employee Health Benefit Plan (FEHBP) and may increase by 2020. An exception to these thresholds is for retired individuals age 55 or older that are not eligible for Medicare, and potentially for employees in high risk professions such as public safety; higher limits for these groups has been set at $11,850/individual and $30,950/family.

If an insurance company or Third Party Administrator (TPA) offers health care plans that exceed these thresholds, a tax will be assessed for 40 percent of the difference in value between the actual plan cost and the PPACA threshold. CalPERS, as the insurance carrier, will be assessed this tax. However, there is nothing in the legislation that restricts CalPERS from pushing the cost of this tax to Hayward as a plan participant of CalPERS.

Tables 4, 5, and 6 illustrate what the estimated annual tax penalty will be by plan in 2020 based on insurance premium only.

Table 4

CalPERS - Rates	Single-Party Monthly Premium[6]					Annual	Subject to Tax[7]	Annual Tax 40%
Monthly Plan Rates	**2016**	**2017**	**2018**	**2019**	**2020**	**2020**		
Anthem HMO Select	$722	$783	$830	$880	$933	$11,197	$997	$399
Anthem HMO Traditional	$855	$990	$1,049	$1,112	$1,179	$14,150	$3,950	$1,580
Blue Shield Access +	$1,016	$1,025	$1,086	$1,152	$1,221	$14,647	$4,447	$1,779
Blue Shield NetValue	$1,034	Plan eliminated effective 01/01/2017						
HealthNet Smart Care	$808	$733	$777	$824	$873	$10,480	$280	$112
Kaiser	$746	$733	$777	$824	$873	$10,482	$282	$113
UnitedHealthcare	$955	$1,062	$1,126	$1,194	$1,265	$15,182	$4,982	$1,993
PERS Choice	$798	$830	$880	$933	$989	$11,867	$1,667	$667
PERS Select	$730	$736	$780	$827	$877	$10,523	$323	$129
PERSCare	$889	$932	$988	$1,048	$1,110	$13,326	$3,126	$1,250
PORAC	$699	$699	$741	$785	$833	$9,990	$0	$0
Single-Party Plan Cadillac Tax Threshold (2018)[8]						**$10,200**		

Table 5

CalPERS - Rates	Two-Party Monthly Premium[6]					Annual	Subject to Tax[7]	Annual Tax 40%
Monthly Plan Rates	**2016**	**2017**	**2018**	**2019**	**2020**	**2020**		
Anthem HMO Select	$1,444	$1,567	$1,661	$1,761	$1,866	$22,395	$0	$0
Anthem HMO Traditional	$1,711	$1,980	$2,099	$2,225	$2,358	$28,300	$800	$320
Blue Shield Access +	$2,032	$2,050	$2,173	$2,303	$2,441	$29,295	$1,795	$718
Blue Shield NetValue	$2,068	Plan eliminated effective 01/01/2017						
HealthNet Smart Care	$1,617	$1,467	$1,555	$1,648	$1,747	$20,961	$0	$0
Kaiser	$1,493	$1,467	$1,555	$1,648	$1,747	$20,964	$0	$0
UnitedHealthcare	$1,911	$2,125	$2,252	$2,387	$2,530	$30,364	$2,864	$1,146
PERS Choice	$1,597	$1,661	$1,760	$1,866	$1,978	$23,734	$0	$0
PERS Select	$1,460	$1,473	$1,561	$1,655	$1,754	$21,046	$0	$0
PERSCare	$1,779	$1,865	$1,977	$2,095	$2,221	$26,652	$0	$0
PORAC	$1,399	$1,467	$1,555	$1,648	$1,747	$20,967	$0	$0
Two-Party Plan Cadillac Tax Threshold (2018)						**$27,500**		

Table 6

CalPERS - Rates	Family Monthly Premium [6]					Annual	Subject to Tax [7]	Annual Tax 40%
Monthly Plan Rates	**2016**	**2017**	**2018**	**2019**	**2020**	**2020**		
Anthem HMO Select	$1,877	$2,037	$2,159	$2,289	$2,426	$29,113	$1,613	$645
Anthem HMO Traditional	$2,224	$2,574	$2,729	$2,892	$3,066	$36,790	$9,290	$3,716
Blue Shield Access +	$2,642	$2,665	$2,824	$2,994	$3,174	$38,083	$10,583	$4,233
Blue Shield NetValue	$2,688	Plan eliminated effective 01/01/2017						
HealthNet Smart Care	$2,102	$1,907	$2,021	$2,142	$2,271	$27,249	$0	$0
Kaiser	$1,941	$1,907	$2,021	$2,142	$2,271	$27,252	$0	$0
UnitedHealthcare	$2,484	$2,762	$2,928	$3,103	$3,289	$39,473	$11,973	$4,789
PERS Choice	$2,076	$2,159	$2,288	$2,426	$2,571	$30,854	$3,354	$1,341
PERS Select	$1,898	$1,914	$2,029	$2,151	$2,280	$27,360	$0	$0
PERSCare	$2,312	$2,424	$2,570	$2,724	$2,887	$34,647	$7,147	$2,859
PORAC	$1,789	$1,876	$1,989	$2,108	$2,234	$26,812	$0	$0
Family Plan Cadillac Tax Threshold (2018)[8]						**$27,500**		

[6] 2016 and 2017 Actuals. Remaining years assume 6% increase annually.
[7] Only the difference between the annual maximum premium and the 2020 threshold are subject to the 40% tax.
[8] Thresholds are estimated for 2018; may increase for 2020. Two-party and family plan thresholds are equivalent.

The Cadillac tax is determined by calculating forty percent of the difference between the annual maximum premium and the 2020 threshold, and multiplying by the number of enrollments. For example, current enrollment in Anthem HMO Select is the following: 13 single-party; 8 two-party; and 15 family. By using the projected premiums for 2020 (assuming a six percent annual increase) and the current annual thresholds of $10,200 for single party, and $27,500 for family (two-party and higher), it is estimated that the Cadillac tax for the Anthem Select HMO plan will be approximately $14,862 annually.

Table 7 below summarizes the Cadillac Tax for those active employees currently enrolled in Anthem HMO Select:

Table 7

Anthem HMO Select				
Enrollment Level	**Current Enrollment (2016)**	**2020 Projected Annual Premium [9]**	**Annual Tax (40%)[10]**	**Total**
Single-Party	13	$11,197	$399	$5,184
Two-Party	8	$22,395 [11]	$0	$0
Family	15	$29,113	$645	$9,678
Estimated Cadillac Tax (Anthem HMO Select)				**$14,862**

[9] Total annual premium; based on 2017 Actuals and 6% projected annual increase thereafter.
[10] Percentage applied to the difference between the annual premium and the 2020 threshold.
[11] Projected annual premium for two-party does not exceed $27,500 threshold; no tax applies.

To arrive at a total amount estimated for the Cadillac tax, each plan offered by the City was evaluated, taking into consideration current enrollment at each level and the difference between the projected annual premiums (over the next three years) and the current Cadillac Tax thresholds.

Federal Health Policy Reports in early 2016 indicate that CalPERS staff and consultants have analyzed plans and possible modifications to plans that may help mitigate or address the tax; however, due to the recent two-year delay, there is no immediate need for CalPERS to take a position. The next steps for CalPERS will be to continue to educate relevant stakeholders about the implications of the tax on CalPERS employers and employees, and continue to review, develop and promote helpful regulatory and legislative reform interventions that would mitigate against any negative impact on CalPERS plans.

FISCAL IMPACT

Exact fiscal impact of implementation of PPACA requirements cannot be fully assessed at this time. To date, the City has incurred some costs associated with researching and implementing the necessary steps to ensure compliance with PPACA. These costs are estimated at approximately $40,000 and include an initial cost of $12,600 for the contract with ACAWorks in calendar year 2016 and $10,800 annually, thereafter. Currently, there is no General Fund impact because prior year budget projections included potential cost increases associated with PPACA.

The City is in full compliance with the Pay or Play requirements and as such, will not be impacted by the "Pay or Play" tax penalty which was effective January 1, 2015.

Due to the current cost of CalPERS benefits, and the projected six percent annual increases to premiums, it is estimated that CalPERS plans will be subject to the Cadillac tax when it goes into effect in 2020. While it appears that the City is not responsible for the tax, it is estimated that CalPERS would push any increased tax liability down to the consumer through rate increases. It is estimated, with current enrollment levels, employee contribution rates, and a projected six percent annual increase in medical premiums over the next three years that the City could pay approximately $568,000 annually as a result of the Cadillac Tax.

NEXT STEPS

Human Resources will continue to monitor legislation regarding this provision and work closely with the Finance Department to budget accordingly for any potential cost increases and report all changes and any recommended policy revisions to the City Manager.

Additionally, Human Resources staff is working with its broker, Alliant Insurance Services to obtain information and quotes for healthcare options outside of CalPERS. Staff is also closely monitoring efforts of the League of California Cities to provide alternatives to CalPERS medical benefits. Staff anticipates receiving additional information in January 2017. At that time, staff will prepare a subsequent report for Council if there are recommendations that require Council input and/or approval.

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