

A photograph of a stethoscope resting on an American flag, with the stars and stripes visible.

What Employers Need to Know Right Now About Health Care Reform

The following is a summary of proposed regulations.
Some or all of the provisions may change when final rules are issued.

HHS, IRS AND DOL ISSUE ADDITIONAL PROPOSED REGULATIONS ADDRESSING OPEN ISSUES UNDER PPACA

The Department of Health and Human Services (HHS), the Internal Revenue Service (IRS) and the Department of Labor (DOL) have recently issued more FAQs and proposed rules that address several employer obligations under the Patient Protection and Affordable Care Act (PPACA).

Notice of Exchange Has Been Delayed

On Jan. 24, 2013, the DOL issued a FAQ that delays the due date for providing employees with a notice about the affordable health exchanges. The notice had been due March 1, 2013 but the due date has been delayed until late summer or early fall of 2013. The delay will result in the notice being provided closer to the start of open enrollment for the exchanges, which will begin Oct. 1, 2013, for a Jan. 1, 2014, effective date.

For additional information about the notice requirements and delay, click below:

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To read the FAQ, click here: <http://www.dol.gov/ebsa/faqs/faq-aca11.html>

HRA Restrictions

Because PPACA prohibits annual dollar limits on essential health benefits, HRAs that are not integrated with other group health coverage (usually a major medical plan) will not be permitted after Jan. 1, 2014.

The Jan. 24, 2013, DOL FAQ also addresses HRAs, and states that an employer-provided HRA will not be considered integrated (and therefore will not be allowed) if it:

- Provides coverage through individual policies or individual market coverage; or
- Credits amounts to an individual when the individual is not enrolled in the other, major medical coverage

Existing HRAs that cannot meet the 2014 requirements generally will be allowed to reimburse expenses incurred after 2014, in accordance with the terms of the plan.

Premium Tax Credit/Subsidy

On Feb. 1, 2013, the IRS issued a final regulation that provides the long awaited answer of whether family members of an employee who has access to affordable self-only coverage are eligible for a premium tax credit/subsidy. The answer is that they are not – if the employee has access to affordable self-only coverage, the spouse and children are also considered to have access to affordable employer-sponsored coverage, and therefore the spouse and children are not eligible for premium tax credits/subsidies. To read the final IRS rule, click here:

<http://www.gpo.gov/fdsys/pkg/FR-2013-02-01/pdf/2013-02136.pdf>

Minimum Essential Coverage

On Feb. 1, 2013, HHS and the IRS issued two proposed regulations that provide details on the individual shared responsibility requirement.

PPACA requires that non-exempt individuals obtain “minimum essential coverage” or pay a penalty. Minimum essential coverage includes individual insurance, Medicare, Medicaid, CHIP, TRICARE, VA and similar government programs, and employer-sponsored coverage. The proposed IRS rule defines minimum essential “employer-sponsored” coverage as an insured or self-funded governmental or ERISA welfare benefit plan that provides medical care directly or through insurance or reimbursement. (An HMO is considered an insured plan.)

Generally, any policy offered in the small or large group market that meets the above requirements will be minimum essential coverage. The proposed IRS regulation states that these types of coverage will not qualify as minimum essential employer-sponsored coverage:

- Accident only;
- Disability income;
- Liability, including general, automobile, and supplemental liability;
- Workers compensation;

- Automobile medical payment;
- Credit only;
- On-site medical clinics;
- Limited scope dental or vision;
- Long-term care, nursing home care, home health care, community-based care or any combination of these;
- Specified diseases or illness;
- Hospital indemnity or other fixed indemnity insurance;
- Medicare supplement;
- Similar limited coverage

Public comments are due March 18, 2013. To read the proposed IRS rule, click here:
<http://www.gpo.gov/fdsys/pkg/FR-2013-02-01/pdf/2013-02141.pdf>

The HHS proposed rule provides details on how an individual can claim an exemption from the individual shared responsibility penalty. For details on the available exemptions, click below:

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Public comments on this rule also are due March 18, 2013. To read the proposed HHS rule, click here:
<http://www.gpo.gov/fdsys/pkg/FR-2013-02-01/pdf/2013-02139.pdf>

Women's Preventive Care Services

Proposed rules that would make it simpler for religious organizations and religious-affiliated not-for-profit organizations like hospitals and schools that have a religious objection to providing contraceptive services were released by the DOL on Feb. 1, 2013. These employers would notify their insurer of their objection, and the insurer automatically would be required to notify the employees that it will provide the coverage without cost sharing or other charges through separate individual health insurance policies.

For religious-affiliated workplaces that self-insure, the third party administrator would be expected to work with an insurer to arrange no-cost contraceptive coverage through separate individual health insurance policies.

The administration believes the cost of free contraceptive coverage will be offset by fewer maternity claims, but is exploring allowing an offset of the cost against federally facilitated exchange user fees.

The proposed rule offers no exemption for private employers that object to covering contraceptive services on religious or moral grounds.



The proposed rule is here: http://www.ofr.gov/OFRUpload/OFRData/2013-02420_PI.pdf

Public comments are due April 3, 2013.

Important: Some of these rules are still in the “proposed” stage, which means that there may be changes when the final rule is issued. Employers should view the proposed rules as an indication of how plans will be regulated beginning in 2014, but need to understand that changes are entirely possible.

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This information is general and is provided for educational purposes only. It reflects UBA's understanding of the available guidance as of the date shown and is subject to change. It is not intended to provide legal advice. You should not act on this information without consulting legal counsel or other knowledgeable advisors.



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