

PPACA Updates– Final Regulations Updates, Summary and Review



Roundtable Series

- Monthly discussion of specific health care reform related topics
- Small group discussions
- Address individual questions or concerns
- Invitation with specific details forthcoming
- Possible session topics:
 - Transition Relief
 - Change in Employment Status
 - Related Entity Status
 - Reporting Options
 - Offers of Coverage
 - Break in Service rules
 - Tracking/recordkeeping Application

Agenda

- Final Regulations Released
- Transition Relief Provisions
- Changes to Employer Mandate
- Tracking Update
- Affordability Update
- Reporting Update
- Other Health Care Reform Updates
- Adoption Agreement
- Questions

Final Regulations Released



Final Regulations Released!!!!!!

- Several sets of Final Regulations released in February and March, 2014
- Regulations can be relied on for at least 2015 plan year.
- Regulations promise an “implementation” period should any revisions or changes be released
 - Changes or revisions released in the future will contain a future effective date.

Changes to Employer Mandate

- Regulations included many updates and clarifications to the proposed regulations
- 28 updates presented today
- Significant emphasis on those switching from one job category to another (seasonal to variable hour, variable hour to full-time, full-time to variable hour, benefit eligible to non-benefit eligible)
 - Not addressed during this Seminar
 - Subject of future Roundtable
- Current presentation is divided into the sections below
 - Transition Relief
 - Changes to Employer Mandate
 - Tracking Update
 - Affordability Update

Transition Relief



Transition Relief

- Is Transition Relief available for my organization's Plan(s)?
 - Yes!!!!
- 6 different Transition Relief provisions issued
 - Nearly all employers will qualify for some type of Transition Relief if needed or desired.

Transition Relief

1. Employer Mandate Delay Transition Relief

- Applies to employers with 50-99 FTE
- Do not have to comply with Employer Mandate in 2015
- Must meet certain criteria
 - May not reduce size of workforce or overall hours of service during period from 2/9/14 – 12/31/14 in order to satisfy this requirement
 - May reduce for other business related reasons
 - During “coverage maintenance period” may not eliminate or materially reduce coverage that was offered on 2/9/14
 - Employer must file certification that all criteria have been met
 - Must comply begin complying with the Mandate for the 2016 plan year

Transition Relief

1. Employer Mandate Delay Transition Relief (continued)

- During “coverage maintenance period” may not eliminate or materially reduce coverage that was offered on 2/9/14
 - Employer contribution toward “employee only” coverage must be at least 95% of the dollar amount on 2/9/14, or
 - Employer contribution toward “employee only” coverage must be the same or a higher percentage as amount on 2/9/14
 - Benefits could change if “employee only” coverage continue to offer minimum value
 - Terms of the plan cannot change to narrow or reduce class of employees or dependents to whom coverage was offered on 2/9/14
- “Coverage Maintenance Period”
 - If a calendar year plan, 2/9/14 – 12/31/15
 - If a plan year plan, 2/9/14 – to end of the 2015 plan year (i.e. 7/1 plan year ends 6/30/2016)

Transition Relief

2. Reduced "A" Penalty Percentage Transition Relief

- During 2015 plan year, employers must offer coverage to 70% of employees averaging 30 or more hours per week
 - Would still pay "B" penalty if individual purchased coverage on the Exchange and received a premium credit AND plan did not meet affordability or MV requirements
 - Percentage will increase to 95% in 2016 plan year

3. Measurement and Stability Period Transition Relief

- Employer may use any 6 consecutive month Measurement Period
 - Same as Proposed Regs
- Corresponding Stability Period must be at least 6 months up to 12 months
- Only permitted during plan year preceding 2015 plan year

Transition Relief

4. ALE Determination Mandate Transition Relief

- Employers can determine if they are an Applicable Large Employer (ALE) by utilizing any 6 consecutive months period during the previous plan year (rather than 12 months)
 - Affects employers who may have 49 or less FTE or 99 or less FTE
 - Had been available for 2014 plan year
 - *Carried forward from Proposed Regulations*

Transition Relief

5. Non-Calendar Year Plans Transition Relief

- Most commonly asked question!!!
- Compliance with Employer Mandate begins on plan anniversary date after January 1, 2015 (e.g.. For July 1 plan years compliance would begin on 7/1/15). *Same as Proposed Regulations*
- Cannot change plan year to delay compliance

6. Dependent Coverage Transition Relief

- Employers not offering dependent coverage will not be penalized if steps are being taken to begin offering coverage
- May not eliminate dependent coverage that was previously offered

Changes to Employer Mandate



Changes to Employer Mandate

1. Volunteer Employees (fire fighters, ambulance workers)

- Hours for bona fide volunteers do not need to be tracked. Coverage does not need to be offered
 - Bona fide volunteers means:
 - Employee of a government entity or 501(a) tax exempt organization; and
 - Only compensation received is
 - Reimbursement of reasonable expenses, or
 - Reasonable benefits (length of service awards) and nominal fees paid by similar entities

Changes to Employer Mandate

2. Students/Interns

- Hours for students in a federal or state work study program do not have to be tracked
- Hours a student works that are not part of a state or federal work study program must be tracked
 - If 30 hours per week average is exceeded coverage must be offered
- Hours for interns must be tracked and coverage must be offered if the student receives or is entitled to compensation.

Changes to Employer Mandate

3. Dependent Definition

- Coverage does not need to be offered for spouses, foster children or step-children
- Coverage must be offered for biological children and adopted children up to age 26
- Children must be covered for the entire month of their 26th birthday
- Children who are not United States citizens or U.S. nationals are excluded from the definition of a dependent unless,
 - The child is a resident of a country that is contiguous to the United States
 - Is in the process of adoption from a foreign country

Changes to Employer Mandate

4. Seasonal Employees Definition

- Must be employed 6 months or less
- Nature of the position must be recurring during the same period each year and the position is temporary
- Some flexibility on length of employment depending on circumstances (ski instructor during snowy winter)
- If seasonal employee experiences a change in employment status could affect tracking and coverage start date

Changes to Employer Mandate

5. Break In Service (non-educational)

- Break in service period reduced to 13 weeks
 - if an employee incurs a break in service which is greater than 13 weeks they may be treated as having been terminated and re-hired (*Proposed regulations stated 26 weeks*). A new IMP can begin.
 - If break in service is less than 13 weeks employer must treat employee as a “continuing employee” and measurement period continues; credited with 0 hours for the days not worked
 - Special Leaves-for FMLA, USERRA or jury duty hours ARE credited for average hours worked during absence

Changes to Employer Mandate

5. Break In Service (educational)

- Break in service period remains at 26 weeks
 - if an employee incurs a break in service which is greater than 26 weeks they may be treated as having been terminated and re-hired. A new IMP can begin.
 - If break in service is less than 26 weeks employer must treat employee as a “continuing employee” and measurement period continues; credited with 0 hours for the days not worked
 - Special Leaves-for FMLA, USERRA or jury duty hours ARE credited for average hours worked during absence
 - Scheduled academic breaks

Changes to Employer Mandate

7. Initial Measurement Period (clarifying points)

- The period before the beginning of the IMP and the period following the IMP prior to the date coverage begins can be no more than 90 days combined
- Coverage must begin no later than the first day of the 14 month of employment

Changes to Employer Mandate

8. Offer of Coverage

- Regulations clarified what qualifies as an “offer of coverage”
- Employee must have the opportunity to accept or decline coverage
- If the plan meets MV and the employee’s cost of coverage is equal to or less than 9.5% of the FPL it will be assumed that coverage has been offered
- Evergreen offers are OK, if employee has knowledge that the election remains in force.
- Offer for coverage made to a union during negotiations is not considered an offer of coverage

Tracking Update



Tracking Update

1. Clarification – Hours of Service Equivalency

- Employers only required to use one method for tracking
 - A particular “hours of service” method may favor one group of employees while another method may favor another group
 - Days worked vs. hours worked vs. weeks worked equivalency tests
 - Employer not required to vary tracking method

2. Clarification – Hours of Service Equivalency

- Employer may not use an equivalency rule to understate employee hours
- For example, employees normally working 10 hour shifts, 4 days a week may not be assigned 8 hours per day during leaves, vacation, etc.

Tracking Update

3. Monthly Measurement Period (*New*) -

- Use for full time employees expected to regularly work 30 or more hours per week
- Measure employees for first 3 months of service
 - If employee works 30 or more hours per week, coverage should be offered as of the 91st day of employment
 - Penalty (if coverage not offered, does not minimum value, is not affordable) would begin as of the first of the month following three months of employment
 - No need for look back or initial measurement period
 - Change in job status could change tracking method from Monthly Measurement to Look Back
 - Separate rules apply

Tracking Update

4. Clarification – Full-Time Definition

4. 30 hours per week or 130 hours per month to be considered “full-time” will remain in effect
 - Regulations indicate that these figures are specifically mentioned in the law
 - Changing would require a bill through Congress and signed by the President

5. Clarification – Permissible Employee Categories (PEC)

- Employers may use different measurement periods and stability period for different PECs described in the Regulations:
 - Salary, hourly, collectively bargained, non-collectively bargained, different collective bargaining units, primary place of employment in different states
- May not use categories other than those prescribed in the law

Affordability Update



Affordability Update

1. Clarification – Safe Harbors

- Three safe harbors from proposed regulations remain in place
 - Rate of pay safe harbor
 - Federal poverty level safe harbor
 - W-2 wages safe harbor
- Employers may use a different affordability safe harbor for different job categories –
 - Some jobs may not lend themselves to certain safe harbors (tipped employee would not use rate of pay)

Affordability Update

2. Clarification – Safe Harbors

- If the employee's wage (salary, hourly rate) is reduced, rate of pay safe harbor must be used
- Affordability is determined by lowest rate of pay of each month

Reporting Update



Reporting Update

- Employers must provide information to the IRS about coverage offered to full-time employees
- Must also provide certain information to employees to help determine if they are eligible for a premium tax credit
- Reporting in January of 2016 for 2015
- Non-calendar year plans will report for only the applicable months in year one but will always report on a calendar year

Reporting Update

General Method (Required information):

Employer Level:

- Name, address, EIN of employer and calendar year being reported
- Name and phone number of employer's contact person
- Certification the full-time employees were offered MEC by the employer plan, by month
- Number of full-time employees for each calendar month for which MEC was offered
- Number of employee statements being submitted

Reporting Update

Employee Statements:

For each full-time employee, by month:

1. Name, address, TIN of each full-time employee and the months, if any, which the employee was covered under the employer plan
2. For each full-time employee, the months for which MEC was available
3. For each full-time employee, the employee's share of monthly premium for self only coverage of lowest cost plan providing MV, by month
4. Whether MEC was offered to the employees; dependents; spouse, or to all

Reporting Update

For each full-time employee, by month:

5. If coverage was not offered to an employee, whether the employee was new a new variable-hour employee, or was in a waiting period, or not a FT employee, or not employed during that month
6. Coverage was offered to a Non-full-time employee during that month
7. Whether the employer met one of the affordability safe harbors with respect to the employee
8. Certain other elements which may pertain to the “simplified” reporting alternatives

Reporting Update

- Final regulations allow for use of simplified reporting methods for employers that meet certain conditions
- Not required to use simplified method
- Within an employer, one of the Simplified Method may be available for some groups of employees and the General Method of reporting is used for other groups

Reporting Update

1. "Subsection A" Simplified Reporting

Qualifying Offer (No Need to Provide Monthly Details):

- Employers certifies that:
 - All employees in a class were offered coverage that met MV and MEC for all months for which the employee was eligible for coverage, ??
 - Cost of lowest cost plan for "employee only" coverage was less than 9.5% of FPL for all months for which the employee was eligible for coverage
 - MEC coverage was offered to spouse and dependents for each month the employee was eligible for coverage

CONCLUSION: *ALE Member need only report the name, SSN and address of FT employees, along with a code that indicates that the employee received a qualifying offer for all months that the employee was a full-time employee in the applicable year*

Reporting Update

2. “Subsection B” Simplified Reporting

98-Percent Offers (No Need to Identify Full-time Employees):

- Employers certifies that:
 - Plan is offered to at least 98% of qualifying employees (and their dependents)
 - Plan offered meets MV and employee only contribution for the lowest cost plan satisfies any of the affordability safe harbor rules
- Employer submits certification on Form 1094 – C.
- No additional information is required

CONCLUSION: ALE member submits certification on Form 1094- C; no employee statements required; no need to report total number of full-time for the reporting year

Reporting Update

3. "Subsection C" Simplified Reporting

QUALIFYING OFFER (Variation for 2015 Only):

- Applies only to employers with 50-99 full-time employees
- Employer certifies that it meets the eligibility requirements for Transition Relief delay
- No additional information required to be reported
- Applicable only for 2015 plan year (as Transition Relief delay will be completed during 2016 plan year.)

Other Health Care Reform Updates



Other Health Care Reform Updates

- Flurry of Regulations released
 - February 10 – Employer Mandate
 - February 24 – Waiting Period
 - March 10 – MEC Reporting
 - March 10 – ALE Reporting
 - March 11 – Reinsurance Fees, Exchange
- Important highlights of 2/24 and 3/11 regulations provided here

Other Health Care Reform Updates

1. Reinsurance Fee

- 2014 assessment - \$63 per participant
- To be paid in two installments
 - \$52.50 per enrollee due in January 2015
 - \$10.50 per enrollee due in December 2015
- 2015 Assessment - \$44
- To be paid in two installments
 - \$33 per enrollee due in January 2016
 - \$11 per enrollee due in December 2016
- 2016 fee amounts not yet determined

Other Health Care Reform Updates

2. Exchange Open Enrollment 2015

- Open enrollment through the Exchanges will begin on November 15, 2014 and run through February 15, 2015
- Application must be received by 12/15/14 for coverage effective 1/1/15
- After 12/15/14, coverage will be effective on the first of the following month if the application is returned by the 15th of the month
- After 12/15/14, coverage will be effective on the first of the second following month if the application is returned between 16th of the month and the end of the month

Other Health Care Reform Updates

3. Cost Sharing Maximums for 2015

- Single coverage out-of-pocket maximum (TROOP) - \$6,600 (currently \$6,350)
- Family coverage out-of-pocket maximum (TROOP) - \$13,200 (currently \$12,700)
- Maximum deductible (only to groups under 50) \$2,050 for single coverage/\$4,100 for family coverage (Currently \$2,000/\$4000)

Other Health Care Reform Updates

4. 90 day waiting period

- In order to be eligible for coverage a person must meet the plans “substantive eligibility conditions” for his/her position
 - Be in an eligible job classification
 - Achieve job-related licensure requirements
 - Meet certain sales goals,
 - Earn a certain commission amount
 - Complete a specified number of hours (cannot exceed 1,200 hours)
 - Satisfy a bona fide employment related orientation period” (cannot exceed one month)
 - Specific rules regarding a “bona fide employment related orientation period” not released
- Coverage must begin no later than the 91st day after the employee meets the “substantive eligibility conditions”

Adoption Agreement



Adoption Agreement

1. *Prepare for a Possible Audit*

- Decisions made in 2014 could be audited in 2022
 - Plan Year
 - Initial and Standard Measurement Periods
 - Administrative Protection Period
 - Stability Period
 - Waiting Period
 - Hours of Service method used
 - Affordability Safe Harbor used
 - PCORI and Reinsurance Fee calculation method used (i.e., snapshot method)
 - Responsibility for tracking, filing, paying fees if “common control” situation

Adoption Agreement

2. Create a document immortalizing decisions made

- Approved by Board, Council, etc.
- Do not need to distribute to employees
- Provide paper trail in the case of a DOL audit
- Establishes standard protocols are followed in the event of a grievance or dispute

Roundtable Series

- Monthly discussion of specific health care reform related topics
- Smaller group
- Address individual questions or concerns
- Invitation with specific details forthcoming
- First two sessions
 - Transition Relief
 - Tracking Tool

Questions

