



Healthcare Reform

UPDATES

About USI Affinity

USI Affinity, the endorsed broker of the Pennsylvania Bar Association, is also one of the largest benefits brokers in the United States.

The healthcare consultants at USI Affinity are experts in the compliance and legal issues around Health Care Reform, and we strive to keep our association partners and their members up-to-date on the latest developments in this area.



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Transitional Relief for Health Care Reform

In previous articles we have discussed potential employer penalties related to offering group medical coverage. While it is clear that plans with Calendar Year renewals will need to comply January 1, 2014, we needed clarification on how to handle plans that renew throughout the year. The IRS issued proposed regulations that provide additional information and greater clarity on how these provisions will apply.

An employer with a non-calendar year plan ("fiscal year plan") may be eligible for transitional relief that would delay the potential for a penalty until the first day of the fiscal plan year that begins in 2014 (as opposed to January 1, 2014). This relief is not afforded to a calendar year plan. The relief applies in the following scenarios:

- a. For any employees who are eligible for coverage under the terms of an employer's plan as of December 27, 2012 (regardless of whether they take the coverage), the employer will not be subject to a potential penalty as to those employees until the first day of the plan year that begins in 2014.
- b. Additionally, with respect to any other employees, as of December 27, 2012, if at least 25% of all employees (fulltime and part-time) are covered by the employer's plan, or at least 33% of all employees are offered coverage under the plan, the employer will not be subject to a potential penalty as to any full-time employee until the first day of the fiscal plan year that begins in 2014.

Thus, if at open enrollment an employer offers coverage under a fiscal plan year with the plan year starting July 1, 2013 to at

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least 33% of its employees, the employer can avoid liability for an employer penalty if, by July 1, 2014, the employer expands the plan to offer coverage satisfying the employer penalty provisions to the full-time employees who had not been offered coverage.

For employers that do not currently cover dependent children, transition relief is available to provide these employers sufficient time to implement the change requiring coverage of dependent children in order to avoid penalty exposure beginning in 2014. Any employer that “takes steps” during its plan year that begins in 2014 toward satisfying the requirement to offer coverage to full-time employees’ dependents will not be liable for any penalty solely on account of a failure to offer coverage to the dependents for that plan year. Coverage for dependents will need to be offered beginning with the 2015 plan year in order to avoid a potential penalty for not offering coverage to full-time employees (and their dependents).

Lastly the IRS has provided employees flexibility in making mid year changes in 2014. Employees may either wish to enroll in the Exchange and discontinue employer health plan coverage or choose to enroll in the employer’s health plan in order to avoid the individual tax for not having health insurance coverage. The existing election rules for cafeteria plans will not allow an individual to make these mid-year election changes. The regulations propose transition relief to allow employers to amend fiscal year cafeteria plans to permit either or both of the following election changes: an employee who elected to salary reduce through the cafeteria plan is allowed to prospectively revoke or change his/her election once during that plan year, without regard to whether the employee experienced a change in status event; and an employee who failed to make a salary reduction election through the cafeteria plan with a fiscal plan year beginning in 2013 is allowed to make a prospective salary reduction election on or after the first day of the 2013 plan year of the cafeteria plan, without regard to whether the employee experienced a change in status event. These changes must be incorporated into the written cafeteria plan document; the amendment may be made retroactively as long as it’s not made later than December 31, 2013 and is effective the first day of the 2013 fiscal plan year.

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