

Publications

Waiting Period Rules: How HHS and DOL Rules Interact with the ACA Shared Responsibility Rules

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The Departments of Treasury, Labor (DOL) and Health and Human Services (HHS) issued final rules earlier this year, 79 Fed. Reg. 10296 (February 24, 2014), regarding health plan waiting periods. The Patient Protection and Affordable Care Act (ACA) requires that, for plan years on or after January 1 of this year, no group health plan or group health insurance issuer may impose a waiting period that exceeds 90 days after an employee is otherwise eligible for coverage. The rules do not require coverage be offered to any particular individual or class of individuals.

To ensure that eligibility conditions based solely on the passage of time are not used to evade the waiting period limit, the regulations say such conditions also cannot exceed 90 days. Additionally, requiring employees to complete a certain number of hours before becoming eligible for coverage is generally allowed as long as the requirement is capped at 1,200 hours. The regulations also address situations in which it cannot be determined that a new employee will be working full-time.

In the attached article, the authors address questions concerning the waiting period requirements and, in particular, how these rules interact with the ACA shared responsibility rules under Internal Revenue Code (IRC) Section 4980H, effective for most plans January 1, 2015.

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