



eBenefits Alert - Don't Stop Thinking About Tomorrow - Even Though Employer Pay or Play Requirements Are Delayed Until 2015

July 3, 2013

Tuesday, July 2, 2013, the Obama Administration announced that it will delay the mandatory insurer and employer reporting requirements under the Affordable Care Act (ACA) until 2015. This transitional relief will make it impractical to determine which employers should be subject to penalties under the Employer Shared Responsibility Mandate (a/k/a "Pay or Play") provisions of the ACA; therefore, the Administration has also extended the effective date for penalties to 2015 as well. This will give employers some "breathing room" while they continue to prepare to comply with ACA requirements to offer affordable coverage to eligible full-time employees.

What Does the Delay Do?

- The delay provides more time for employers to continue their compliance efforts, and for the Administration to continue to develop systems for employer information reporting and coordination with Exchanges.
- The delay provides that employers will not be subject to penalties for failure to offer affordable coverage in 2014 to their employees working 30 hours a week or more.
- The delay also applies to mandatory insurer reporting obligations under the ACA.

What Doesn't the Delay Do?

- The delay does not remove the Employer Shared Responsibility Mandate.
- The delay does not change the criteria for determining full-time employee status or affordability of coverage.
- The delay does not change the Individual Mandate under ACA which requires individuals to have health insurance coverage or pay a penalty tax.
- The delay does not change the establishment of the Exchanges.
- The delay does not require changes to existing employer-provided group health coverage.

What are Some Issues After the Pay or Play Delay?

- Employers who fail to take advantage of this additional transition time may find themselves unprepared for implementation in 2015.
- Employees subject to the Individual Mandate may find themselves without employer-provided coverage as an option for compliance.

What Should Employers Do Now?

- Continue to develop and test out systems for determining which employees must be offered coverage, the affordability of the coverage and the administration of measurement, administrative, and stability periods.
- Decide on a measurement period in time to start measuring employee hours as early as this fall for 2015 eligibility.
- Verify that independent contractor classifications are correctly applied.
- Determine whether changes are needed to group health plans, considering other ACA requirements and changes to same-sex marriage laws.
- Continue to monitor developing information regarding the ACA Pay or Play requirements.

Conclusion

The Obama Administration's announcement of a one year period of transitional relief for employer reporting and potential penalty payments under the ACA for Pay or Play compliance provides an opportunity for employers to continue their compliance efforts. It also allows employers to prepare group health plan amendments and employee communications under a less restrictive time deadline. Employers should continue their compliance efforts to be ready and comfortable with information reporting, record maintenance and full ACA implementation in 2015.

This article is provided for general informational purposes only and should not be construed as legal advice or legal opinion on any specific facts or circumstances. You are urged to consult a lawyer concerning any specific legal questions you may have.