

Federal Government Relaxes Employer Affordable Care Act Implementation Requirements

February 13, 2014

On Feb. 10, the U. S. Treasury Department released the final regulations for implementing the “employer shared responsibility” provisions of the Affordable Care Act (ACA). The regulations will be effective upon publication in the Federal Register.

Among the highlights is the extension of some of the transition extensions. The final regulations also provide relief for some large employers with 100 or more full-time employees. However, they will still need to comply with the shared responsibility provisions in 2015.

The shared responsibility provisions will apply to employers with 50 to 99 full time employees starting in 2016, rather than 2015, giving them an additional year to comply with the “play or pay” rules. To qualify for this delay, employers must provide an appropriate certification as set forth in the final regulations.

The final regulations also extended some of the 2014 transition relief rules, including:

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Allowing employers to determine whether they had at least 100 full-time or full-time equivalent employees in the previous year by a reference to a period of at least six consecutive months, instead of a full year.

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Employers with plan years that do not start on Jan. 1 will be able to begin compliance with the employer mandate at the start of their plan years in 2015 rather than on Jan. 1, 2015, and the conditions for this relief are expanded to include more plan sponsors.

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The requirement that employers offer coverage to their full-time employees’ dependents will not apply in 2015 to employers that are taking steps to arrange for such coverage to begin in 2016.

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On a one-time basis, in 2014, preparing for 2015, employers using the look-back measurement method to determine full-time status may use a measurement period of six months, even with respect to a stability period – the time during which an employee with variable hours must be offered coverage – of

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up to 12 months.

There is some relief for applicable large employers that do not qualify for the additional delay in implementation, if they offer coverage to most, but not all employees in 2015. Applicable large employers will need to offer coverage to 70 percent of their full-time employees in 2015 to avoid a penalty payment. In 2016 and beyond, applicable large employers will need to offer coverage to 95 percent of their full-time employees to avoid these penalties.

The final regulations also provide clarifications regarding whether employees of certain occupations are considered full-time. These include volunteers, teachers and educational employees, seasonal employees, students in government sponsored work study programs and adjunct faculty members.

The final regulations incorporate both the proposed rule allowing employers to use an optional look-back measurement method to make it easier to determine whether employees with varying hours and seasonal employees are full-time; and the proposed rules regarding use of safe harbors to determine whether the coverage they offer is affordable to employees. Employers may use the wages they pay, their employees' hourly rates or the federal poverty level to determine whether employer coverage is affordable under the ACA.

Stay tuned for final regulations (expected to be issued shortly) simplifying and streamlining the employer reporting requirements.

If you have any questions, please contact the author of this Rapid Report, Laura M. Dinon, or any member of Plunkett Cooney's Labor and Employment Law Practice Group.

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