

health care reform alert

February 11, 2014

Employer Mandate Final Regulations Issued

The Treasury Department issued final regulations on the employer shared responsibility provisions, commonly known as the “employer mandate,” on February 10, 2014. The regulations covered several topics:

Phasing in of the Employer Mandate by Employer Size

Employers with 50 to 99 full-time employees will not face penalties for not offering coverage to full-time employees and their dependents up to age 26 until the first plan year beginning on or after January 1, 2016. These employers will need to certify that they are not reducing the size of their workforce to stay below 100 employees.

Employers with 100 or more full-time employees and their dependents up to age 26 will not face penalties if they offer coverage to 70% of their full-time employees in 2015. They will need to offer coverage to 95% of full-time employees beginning in 2016.

The full-time employee definition remains at 30 hours or more per week. The definition of dependent has been revised to exclude stepchildren and foster children. It continues to exclude spouses.

Extension of Transition Relief for 2015

The final regulations extend transitional relief in several ways, including:

- Employers with non-calendar-year plans must comply with the employer mandate as of the beginning of the first plan year commencing after January 1, 2015.
- The requirement to offer dependent coverage will not apply in 2015 to employers that are taking steps to offer dependent coverage by 2016.
- Employers can use a six-month “look back” period to determine whether they had at least 100

The Employer Mandate

The **employer mandate** applies to employers with 50 or more full-time employees or full-time equivalents. These employers must:

- Offer “affordable” (costs no more than 9.5% of an employee’s wages) and “minimum value” (covers 60%+ of total covered costs) coverage to full-time employees working at least 30 hours a week and their dependent children up to age 26.
- Pay a penalty if they do not offer the required coverage and one or more employees receive a premium tax credit for coverage purchased through the Marketplace.

The employer mandate was originally effective for 2014, but was delayed until 2015.

full-time or full-time equivalent employees in the previous year, which aligns with the phasing in of the penalties.

- In 2014, employers may use a six-month measurement period to determine the stability period during which employees with variable hours must be offered coverage.

However, there was also relief for 2014 allowing employer plans to recognize the individual mandate and the availability of coverage through the Marketplaces as an allowable Section 125 life status event. This particular relief has not been extended into 2015.

Determining Full-Time and Part-Time Employees

The regulations clarify the methods employers can use to determine whether employees are full-time. They also address these specific situations:

- Bona fide volunteer workers for government and tax-exempt entities, such as firefighters and emergency responders, are not considered full-time employees.
- Teachers and other education employees are considered full-time employees even if they don't work full-time year-round.
- Seasonal employees who typically work six months or less are not considered full-time employees; this includes retail workers employed exclusively during holiday seasons.
- Schools with adjunct faculty may credit 2¼ hours of service per week for each hour of teaching or classroom time.
- Work done by students in federal or state-sponsored work-study programs will not be counted in determining if they are full-time employees.

Safe Harbors for Determining if Coverage is Affordable

The regulations confirm that employers can use W-2 wages, hourly rates or the federal poverty level to determine whether the coverage they offer is “affordable.” If using the W-2 safe harbor, full W-2 wages must be used and cannot be reduced for salary reduction elections under a 401(k) plan or a cafeteria plan.

New Businesses and New Employees

If an employer didn't exist in the prior calendar year, the employer should determine whether it is a large employer based on the average number of employees it reasonably expects to employ on business days in the current year.

For new employees, the employer is not subject to a penalty for the first three months of employment if coverage is offered no later than the first day of the fourth month of employment.

Next Steps

Look for an invitation soon for a Cigna web meeting on the employer mandate final regulations and related impacts.

We encourage you to bookmark Cigna's health care reform website, InformedOnReform.com, where we will update information as future guidance and final rules are released.

[Read the fact sheet](#)

[Review the regulations](#)