

July 22, 2014

News on PPACA Subsidies and U.S. Territory Requirements

The following two news items are unrelated but reflect recent announcements.

Two Federal Appeals Courts Rule on Subsidies

Two federal appeals courts have recently issued contradictory rulings on whether individuals enrolling in health plans offered through Marketplaces run by the federal government are eligible for subsidies to help pay for their coverage.

The D.C. Circuit Court of Appeals ruled that subsidies could go only to individuals enrolled through Marketplaces established by states. The Fourth Circuit Court of Appeals (Richmond, VA) ruled that individuals enrolled through Marketplaces established by the federal government are eligible for subsidies.

Only 16 states and the District of Columbia set up their own Marketplaces. All other states deferred to the federal Marketplace.

In both cases, a review by the full panel of judges on each of these Circuit Courts may be requested, and appeals to the Supreme Court are likely if the lower courts remain split.

The law remains unchanged and current subsidies will remain in place until the legal case plays out.

Certain PPACA Provisions Will No Longer Apply to U.S. Territories

On July 16, the Department of Health & Human Services (HHS) notified U.S. territories (Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Northern Mariana Islands) that the following Patient Protection and Affordable Care Act (PPACA) provisions **will no longer apply** to insured plans situated in the territories:

- Required coverage of Essential Health Benefits (EHB) by individual and small group plans*
- Medical Loss Ratio (MLR) rebates
- Reinsurance assessment fees

- Employer mandate (a territory may enact a comparable provision under its own law)
- Guaranteed issue
- Rate review*
- Community rating*
- Single risk pool*
- Risk corridors and risk adjustment*

* Applies to individual and small group insured plans

The change applies prospectively only, effective July 16, 2014.

The following provisions **will continue to apply** to health plans issued in the U.S. Territories:

- 100% coverage for preventive care
- Dependent coverage to age 26
- Summary of Benefits and Coverage (SBC)
- Individual mandate (although residents of the territories are deemed to have minimum essential coverage even if they are not enrolled in health coverage)
- Reporting requirements for employers and insurers
- No limits on coverage for pre-existing conditions
- 90-day maximum waiting period
- Coverage for clinical trials
- No annual or lifetime dollar limits on Essential Health Benefits
- Guaranteed renewability
- Ban on rescission of coverage
- Required appeals process
- No discrimination based on health status
- Non-discrimination against health care providers
- Discrimination in favor of highly compensated individuals
- Patient protections, e.g., doctor choice including direct access to OB/GYNs

HHS intends to reflect its decision in future regulations. In the meantime, insurers and employers can make changes based on this announcement.

HHS issued an identical letter to each territory. A link to the Puerto Rico letter is included below.

[Review the Puerto Rico letter](#)

Be sure and bookmark www.InformedOnReform.com for the latest health care reform

news.