

O.C.A. Benefit Services^{LLC}

Your Prescription to a Healthier Bottom Line



ACA Implementation FAQs Reiterate Premium Reimbursement Non-Compliance

Yesterday, DOL published additional guidance reiterating that employer premium reimbursement arrangements cannot be integrated with individual policies to satisfy requirements under the Public Health Service (PHS) Act sections 2711 and 2713.

Additional guidance on this topic has been expected for some time now in response to reports that some vendors are continuing to promote employer healthcare arrangements that use individual policies, while claiming to have found methods by which these arrangements would be deemed compliant with ACA reforms.

Yesterday's DOL guidance used very specific language to declare that such plans do not comply with PHS Act sections 2711 and 2713 and consequently may be subject to penalties including excise taxes under IRC section 4980D. For example, quoting from FAQs Part XXII:

"Q3: A vendor markets a product to employers claiming that employers can cancel their group policies, set up a Code section 105 reimbursement plan that works with health insurance brokers or agents to help employees select individual insurance policies, and allow employees to

access the premium tax credits for Marketplace coverage. Is this permissible?

"No ... the arrangements described are themselves group health plans and, therefore, employees participating in such arrangements are ineligible for premium tax credits (or cost-sharing reductions) for Marketplace coverage. The mere fact that the employer does not get involved ... does not prevent the arrangement from being a group health plan Such employer health care arrangements cannot be integrated with individual market policies to satisfy the market reforms and, therefore, will violate PHS Act sections 2711 and 2713, among other provisions ..."

We encourage you to thoroughly review both [FAQs Part XXII](#) and the earlier DOL guidance referenced and footnoted in the FAQs.

Thank you,
O.C.A. Benefit Services

Compliance at its peak!

Give us a call!!