
THE GROUP BENEFIT NEWS BULLETIN

Updates on Health Care Reform

Potential Employer Mandate Changes Regarding Measurement Periods for Certain Employees

Late last week, the IRS released several new notices. One of those is [Notice 2014-49](#), which provides a **proposed** method of applying the look-back measurement method for certain types of employees in which the measurement period changes, such as a transfer of position within the applicable large employer member or a transfer from one applicable large employer member to another member. Each employer, even those within a parent company, decide the length of the measurement period and stability period on their own.

The Employer Mandate allows an employer to have different measurement periods/methods, if they choose, for different categories of employees. Those categories are 1) collectively bargained and non-collectively bargained employees, 2) each group of collectively bargained employees covered by a separate collective bargaining agreement, 3) salaried employees and hourly employees, and 4) employees whose primary places of employment are in different States.

In addition, Notice 2014-49 provides proposed guidance on employer-initiated changes in measurement periods/methods for the different categories of employees. For instance, if an employer changes the measurement period for a category from one year to the next (12 months to 6 months) a transition period must apply to those who are already in a stability period under the current measurement period (12 months) to the next measurement period (6 months) and will maintain their status through the current stability period.

Notice 2014-49, in general, states that an employee who has been employed for a full measurement period at the time of transfer retains his or her status through the end of that associated stability period. For those employees who are not in a stability period or administrative period at the time of the transfer, the measurement period of the new position is used, but includes the hours of the old position.

Further final guidance on this notice is pending; however, employers may rely on these proposed regulations until said final guidance is issued or at least through 2016.

Proposed New Permitted Election Changes for Health Coverage under Section 125 Cafeteria Plans

[Notice 2014-55](#), issued on September 18th, allows for employers to expand permitted changes for health coverage under a cafeteria plan. Employers may rely on the reasonable representation of the employee regarding these changes. **These revocations are on a prospective basis only.**

The first scenario deals with those employees whose hours of service are reduced. The Affordable Care Act requires those with 30 hours of service or more must be offered group coverage. For those employees whose hours of service are reduced below the ACA 30 hour requirement but still maintain eligibility for coverage under the employer plan, a revocation of an election of coverage under the group plan is permissible. This revocation is intended due to the employee and his or her dependents enrolling into another plan that provides minimum essential coverage by the first day of the second month following the month of the revocation.

The second scenario provides for those who would like to purchase a plan through the Marketplace Exchange, but cannot due to having a non-calendar year plan or cannot due to the fact that under current regulations, Special Enrollment rights are not an allowable justification for joining a plan on the Marketplace Exchange. Notice 2014-55 now allows the above mentioned scenarios to take place. The revocation to join the plan from the Marketplace Exchange must be intended for the enrollment into a plan from the Marketplace Exchange no later than the day immediately following the last day of the original coverage being revoked.

Cafeteria Plans must be amended to allow these changes, and the amendment must be adopted on or before the last day of the plan year in which the elections are allowed. Amendments may be effective retroactively to the first day of the plan year in which the changes are to occur. The cafeteria plan must operate in accordance with Notice 2014-55 and the employer must inform participants of the amendment. In addition, any plan that begins in 2014 may be amended on or before the last day of the plan year that begins in 2015.

PCORI Fee Set For Calendar Year and Non Calendar Year Plans Ending on or After October 1, 2014 and Before October 1, 2015

Lastly, [Notice 2014-56](#) was issued establishing the new rate for plans ending on or after October 1, 2014 and before October 1, 2015. The new rate for this time period will be \$2.08 per covered life.

As always, TBPG will continue to monitor all updates and keep you informed of any pertinent information. If you have any questions, please contact your TBPG representative.

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