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# ***THE GROUP BENEFIT NEWS BULLETIN***

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## **UPDATE: 90 Day Waiting Period Final Rules Issued**

*All Plans in 2014 Are Still Subject To the Previously Issued Proposed Guidance*

*Further Clarification on Certificates of Creditable Coverage Issued*

Final Regulations regarding the 90 Day Waiting Period limitations were published in the Federal Register on February 24<sup>th</sup>, 2014. The Final regulations take effect on January 1<sup>st</sup>, 2015; however, during 2014 all plans are subject to the previous proposed guidance on this topic. The final regulations generally adopt the measures outlined within the proposed guidance.

Starting January 1<sup>st</sup> 2014, plans are not allowed to impose a waiting period beyond 90 days for anyone who becomes eligible to participate in a plan. A waiting period is defined as “the period that must pass before coverage for an individual who is otherwise eligible to enroll under the terms of a group health plan can become effective.”

In addition, other conditions for eligibility under the terms of a group health plan are permissible, such as job classification, achieving licensure requirements, or completion of cumulative hours of service (not to exceed 1,200 hours) as long as the conditions are not designed to avoid the 90 day waiting period limitation.

One item that is currently being reviewed by the Department of Labor is the application of an “employment based orientation period” as a condition of eligibility. The proposed guidance for this item defines an orientation period as a period of time that an employer and employee could evaluate if the employment situation is in the best interest of each party. If so, standard orientation and training would begin, however, the orientation period must be less than one month from the start date of the employee (e.g. start date is October 1<sup>st</sup>; last day of orientation would be October 31<sup>st</sup>).

If a reasonable and bona fide employment based orientation period was to be incorporated by a health plan as a condition of eligibility, then it would not be considered to avoid the 90 day waiting period limitation as long as the 90 day waiting period began on the first day after the orientation period ended. A comment period is currently in place through April 25<sup>th</sup>, 2014. Future guidance is to be issued upon the conclusion of the comment period.

Final regulations were also provided with respect to the issuing of Certificates of Creditable Coverage. Certificates will need to be provided through the end of 2014 even though starting January 1<sup>st</sup>, 2014 no one can be denied coverage due to a preexisting condition. This is due to the fact that any plan that began before January 1<sup>st</sup>, 2014 may still impose a preexisting condition and so an individual may need a Certificate through the end of 2014.

TBPG will continue to keep you informed of any pertinent information. If you have any questions, please contact your TBPG representative.

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