

90-day waiting period

What is it?

Waiting periods are the period of time that must pass before coverage for an employee or dependent, who is otherwise eligible for coverage, can become effective. Under federal rules, employee waiting periods for health care coverage cannot exceed 90 calendar days.

What does it mean for you?

The final 90-day waiting period rules issued on Feb. 20, 2014, apply to grandfathered and non-grandfathered self-insured and fully insured plans. These final rules are effective for plan years beginning on or after Jan. 1, 2015.

In addition to the waiting period rules, these final regulations provide that, given the prohibition of pre-existing condition exclusions, creditable coverage notice requirements are discontinued as of Dec. 31, 2014.

Q&As

How are the final rules different than the proposed regulations introduced in Aug. 2013?

The main change was that the final rules allow a "reasonable bona fide employment-related orientation period" before the 90-day waiting period begins. One calendar month is the maximum length of an orientation period. Additionally, final rules indicate that large employers should be aware that compliance with the 90-day waiting period and orientation period could conflict with employer shared responsibility requirements to cover full-time employees by the first day of the fourth full month of employment to avoid penalty.

Substantive eligibility conditions such as full-time status, hours of service, job classification or job-related licensures are still allowed. Requirements simply based on the passage of time beyond the 90-day limit are prohibited.

How are 90 days counted?

The 90-day waiting period must include all calendar days, including holidays and weekends. If the 91st day falls on a weekend or holiday, the health plan may, for administrative convenience, choose to permit coverage to become effective earlier than the 91st day.

How are late or special enrollees handled?

For late or special enrollees, any time period before the enrollment date is not counted as part of the 90-day waiting period. The effective date of coverage for special enrollees continues to be set forth in the 2004 HIPAA regulations governing special enrollment periods, which can be found in the member contract.

Existing state eligibility rules and/or plan participation rules still apply.

Q&As (continued)

How would the rules apply to an employee who was rehired?

Employees whose employment was terminated and were then rehired may be treated as new hires subject to the 90-day waiting period, provided the employer is not merely attempting to avoid compliance with the waiting period rules. The same analysis would apply to an individual who moves to a job classification that is ineligible for coverage under the plan but then later moves back to an eligible job classification.

MORE INFORMATION

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