

Agencies Continue To Provide Health Care Reform Guidance for Health and Welfare Plans

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On December 22, the Departments of Health & Human Services, Labor and the Treasury (the "Departments") issued Frequently Asked Questions regarding the Patient Protection and Affordable Care Act of 2010 (the "ACA"), including guidance on unclear deadlines under the ACA. In addition, on December 22, the Internal Revenue Service ("IRS") issued Notice 2011-1 providing that the effective date for the ACA's nondiscrimination provisions applicable to insured plans will be delayed until further guidance is issued.

The December FAQs issued by the Departments are the fifth in a series of FAQs released regarding open issues under the ACA and other laws impacting group health plans. The December FAQs, most notably, provide guidance about previously unclear ACA effective dates. The FAQs indicate that the ACA's requirement to automatically enroll employees in health plans will become effective upon the release of implementing regulations, which are not expected until 2014. In addition, the FAQs address when the requirement to distribute a 60-day advance notice of a material plan or coverage modification (the "Advance Modification Notice") will become effective. Under the FAQs, employers will not be required to distribute the Advance Modification Notice until after the ACA's summary of benefits and coverage explanation standards are issued and health plans are required to comply. As a result, group health plans could have until March 22, 2012 before the Advance Modification Notice requirements will go into effect. The FAQs are available [here](#) and also include guidance regarding value-based designs under the preventive care rules, the mental health parity rules and the ACA's wellness program rules.

In Notice 2011-1, the IRS provided guidance regarding the application of the ACA's nondiscrimination provisions to insured health plans. Recognizing that insured plans need additional information in order to comply with the new nondiscrimination requirements, the IRS postponed the effective date of these requirements until the IRS issues further guidance.



This notice delays the need for plan sponsors providing executives with special benefits or fully paid COBRA to take immediate action, but these plan sponsors should be on the lookout for future guidance on this issue.

Reed Smith will continue to monitor and provide guidance about these effective dates and other ACA developments, as well as recent efforts by Congress to repeal the ACA. In the interim, for questions regarding this benefits alert, health care reform or health and welfare benefit plan compliance, please contact one of the individuals listed to the right, or your Reed Smith attorney.

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