

Health Care Reform Updates



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Final Rules on 90-Day Waiting Period Limitation

[Final rules](#) address the requirement in the Affordable Care Act that group health plans limit any waiting period to 90 days beginning with plan years starting on or after January 1, 2014.

Waiting Period Defined

A waiting period is the period of time that must pass before coverage for an employee or dependent who is otherwise eligible to enroll under the terms of a group health plan can become effective. Being otherwise eligible to enroll in a plan means having met the plan's substantive eligibility conditions (such as, for example, being in an eligible job classification, achieving job-related licensure requirements specified in the plan's terms, or satisfying a reasonable and bona fide employment-based orientation period).



Key Highlights of the Final Rules

Under the [final rules](#), eligibility conditions that are based solely on the lapse of a time period are permissible for no more than 90 days. Other conditions for eligibility are generally permissible, such as meeting certain sales goals, earning a certain level of commission, or successfully completing an orientation period.

The final rules retain many of the provisions outlined in previously issued proposed regulations, such as the approach for applying waiting periods to variable-hour employees in cases in which a specified number of hours of service per period is a plan eligibility condition. Highlights of the final rules include:

- Employers are not required to offer coverage to any particular individual or class of individuals (including, for example, part-time employees);
- All calendar days are counted for purposes of the 90-day limit, including weekends and holidays, beginning on the individual's enrollment date;
- A requirement that employees complete a certain number of cumulative hours of service before becoming eligible for coverage is generally allowed as long as the requirement does not exceed 1,200 hours;
- A former employee who is rehired may be treated as newly eligible for coverage upon rehire and, therefore, may be required to meet the plan's eligibility criteria and satisfy the waiting period anew, if reasonable under the circumstances; and
- A requirement to successfully complete a reasonable and bona fide employment-based orientation period may be imposed as a condition for eligibility for coverage under a plan (a companion [proposed rule](#) would limit the maximum duration of an otherwise permissible orientation period to one month).

For plan years beginning in 2014, plans may comply with either the [previously proposed regulations](#) or the [final rules](#) (effective for plan years beginning on or after January 1, 2015).

Be sure to review our [Summary by Year](#) for other key changes under the Affordable Care Act taking effect in 2014.

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