

Timeline of Highlights for Employer Group Health Plan Compliance with the Affordable Care Act

by Joan A. Disler, Michelle Capezza, and Gretchen Harders

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Now that the Supreme Court of the United States has upheld essentially all of the provisions of the Obama administration's Affordable Care Act ("ACA"), employers are faced with looming deadlines to bring their group health plans into compliance with the ACA's numerous new requirements. We have prepared for employers a timeline of the highlights of the upcoming deadlines for compliance with the ACA that apply to non-grandfathered group health plans. The timeline can be found on the next page of this Client Alert.

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July 1, 2012	Aug. 1, 2012	Aug. 1, 2012	Sept. 23, 2012	Dec. 31, 2012	Jan. 1, 2013	Jan. 1, 2013	Jan. 1, 2013	Mar. 1, 2013	July 1 or July 31, 2013
Claims and Appeals Processes Employer group health plans must have implemented new internal and external claims processes in part by July 1, 2011, and generally by Jan. 1, 2012 Self-insured group health plans must contract with at least two Independent Review Organizations (“IROs”) by Jan. 1, 2012, and three IROs by July 1, 2012	Medical Loss Ratio (“MLR”) Rebates (if any) Employer insured group health plans will receive MLR rebates if insurer fails MLR testing Group health plans receiving MLR rebates must establish procedures for compliance with ERISA plan asset rules for distribution of rebates to employees and/or plan sponsors	Preventive Health Services for Women Employer group health plans’ requirement to provide recommended preventive health services without cost-sharing is expanded to include preventive coverage for women, including coverage for contraceptives	Summaries of Benefits & Coverages (“SBCs”) For plan years commencing on and after Sept. 23, 2012, self-insured group health plans and insurers must provide SBCs in connection with annual enrollment and for new enrollees	Form W-2 Reporting for 2012 Tax Year Form W-2s must include the value of group health plan benefits provided to employees. This applies to employers issuing 250 or more Form W-2s. Deadline for issuance of 2012 Form W-2s is Jan. 31, 2013	Flexible Spending Account (“FSA”) Annual Limit Maximum dollar limit for an employer’s FSA plan is \$2,500 annually Retiree Prescription Drug Expenses Employers cannot take a deduction for subsidized retiree prescription drug expenses	FICA Tax Increase FICA tax will increase by 3.8% on certain unearned income of high-income individuals above certain thresholds Thresholds are high-income individuals earning annually \$200,000; \$250,000 if married filing jointly; or \$125,000 if married filing separately	Medicare Tax Increase Medicare tax on wages will increase by 0.9% for high-income individuals High-income individuals are those earning annually more than \$200,000 individually (\$250,000 if married filing jointly)	Employee Notice of Exchange Employers must provide a notice to employees of availability of State Health Insurance Exchanges	Comparative Clinical Effectiveness Research Fees For plan years ending on and after Oct. 1, 2012, and before Oct. 1, 2013, self-insured group health plans and insurers must pay fees per covered life. Initial fee is \$1 per covered life, increasing to \$2 per covered life for plan years ending on and after Oct. 1, 2013 (and adjusted for later plan years) First possible payments are due July 1 or July 31, 2013 (depending on method of calculation).

Dec. 31, 2013	Effective Date Not Specified	Jan. 1, 2014	Jan. 1, 2014	Jan. 1, 2014	Jan. 1, 2014	Jan. 1, 2014	Expected Jan. 1, 2014	Expected Jan. 1, 2014	Jan. 1, 2018
HIPAA Certification Employer group health plans must certify requirements for HHS rules on electronic transactions between providers and health plans	Quality of Care Reporting Employer group health plans must provide a report annually, disclosing information of plan benefits and reimbursement structures that improve health outcomes Though deadline for issuing regulations was Mar. 23, 2012, regulations have not yet been issued and compliance is delayed until such time	“Pay or Play”—Employer Shared Responsibility Employers with 50 or more full-time equivalent employees must offer a minimum level of affordable health care coverage or pay tax penalties	“Pay or Play”—Individual Mandate Most individual taxpayers must have health coverage or purchase health coverage on a State Health Insurance Exchange or pay tax penalties	Wellness Incentives Employer plans may increase permitted wellness incentives from 20% of average costs to 30%	Waiting Periods Employer group health plans may not impose waiting periods longer than 90 days Preexisting Condition Exclusions Employer group health plans may not impose preexisting condition exclusions	Annual Dollar Limits Employer group health plans may not impose annual dollar limits on essential health benefits	Automatic Enrollment Large employers (employers with more than 200 full-time employees) must automatically enroll new employees in employers’ group health plan Compliance is delayed until regulations are issued (expected by Jan. 1, 2014)	Nondiscrimination Rule Insured employer group health plans may not discriminate in favor of highly compensated employees Compliance is delayed until regulations are issued (expected by Jan. 1, 2014)	“Cadillac Tax” Employers will be required to pay an excise tax if coverage under their group health plan exceeds annual cost of \$10,200 (single coverage) or \$27,500 (family coverage), to be adjusted for inflation

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