

Enforcement Relief Extended for Student Premium Reduction Arrangements

On October 21, three federal departments — Treasury, DOL and HHS — issued a Frequently Asked Question in which they indefinitely extended prior enforcement relief for premium reduction arrangements offered by colleges and universities in connection with student health plans.

Background

In 2013, the IRS, DOL and the Department of Health & Human Services, or HHS, (the departments) issued guidance that addressed the application of the Affordable Care Act's (ACA's) market reforms to employer payment plans (EPPs) — i.e., arrangements in which an employer directly pays or reimburses health insurance premiums for an individual policy. The guidance made clear that unless they qualify as retiree-only plans or are integrated with an ACA-compliant group health plan, EPPs are group health plans that will generally violate ACA's prohibition on annual dollar limits on essential health benefits (by limiting the amount of reimbursement or payment) as well as the requirement to cover certain preventive services without cost-sharing. As a result, EPPs provided in connection with individual health insurance coverage may be subject to penalties, including excise taxes.

Colleges and universities often offer health coverage to their students and their dependents. For ACA purposes, student health insurance is treated as a type of individual health insurance policy. Many institutions provide this coverage at reduced or no cost to some students (typically graduate students); this premium reduction arrangement may take the form of a credit, offset, reimbursement or stipend. Because some students may teach or perform other services for the institution, it is possible that a student could be deemed the institution's employee. In that event, the premium reduction arrangement could constitute an EPP that would not comply with ACA market reforms.

Earlier this year, the departments issued guidance confirming the potential applicability of ACA market reforms to premium reduction arrangements offered in connection with student health plans and providing institutions with relief from potential enforcement actions for a limited time. Under this enforcement relief, the departments stated that they would not assert that a premium reduction arrangement offered in connection with other insured or self-insured student health



coverage for a plan or policy year beginning before January 1, 2017, failed to satisfy ACA market reforms. (See our [March 16, 2016 For Your Information](#).)

FAQs Part 33

In [FAQs About Affordable Care Act Implementation Part 33](#), the departments announced that the enforcement relief for premium reduction arrangements offered in connection with student health plans would be extended “pending further guidance.” This means that, barring a change in position, the departments will not assert that a premium reduction arrangement offered in connection with other student health coverage fails to satisfy ACA market reforms. In extending the relief, the departments noted that premium reduction arrangements for graduate students are part of a complex admission offer and acceptance process, and that Congress had indicated its intent in the ACA to preserve the ability of colleges and universities to continue offering student health insurance plans otherwise permissible under federal, state and local laws.

In Closing

The extension of the enforcement relief should be welcome news for colleges and universities that may have been struggling with how to provide graduate students with subsidized student health coverage without possibly violating ACA requirements.

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Produced by the Knowledge Resource Center of Xerox HR Consulting

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