

# CLIENT NEWS BRIEF

## Final Regulations Implementing the Affordable Care Act Provide Employers Further Relief

The United States Department of Treasury and the Internal Revenue Service (IRS) issued final regulations on February 10, 2014, implementing the Employer Shared Responsibility Provisions of the Affordable Care Act (ACA). The final regulations push back significant deadlines for employers while also providing clarification regarding some of the existing rules and regulations.

### Phase-In of Employer Responsibility Provisions

The ACA requires employers with at least 50 full-time or full-time equivalent employees to offer affordable, minimum value, minimum essential health care coverage to eligible employees and their dependants or risk paying a penalty (also known as an "Employer Shared Responsibility Payment"). In July 2013, the federal government announced that employers would not face penalties under the ACA for failure to offer health care coverage until January 1, 2015. The final regulations offer further transition relief by providing for gradual phase-in of the employer responsibility provisions:

1. **Employers with 50 to 99 employees** will have to fulfill the employer reporting requirements in 2015, but will have until 2016 to offer health care coverage to qualifying employees before any penalties may apply.
2. **Employers with 100 or more employees** may phase-in health care coverage of qualifying employees. Under this phasing-in process, employers who offer at least 70% of their qualifying employees health care coverage in 2015 will not face the associated penalties. For 2016, this percentage will rise to 95%.

In the case of a non-calendar plan year that begins in 2015, the above transition relief will continue through the portion of that 2015 plan year that falls within 2016.

Additionally, employers are not required to offer coverage to dependents until 2016 as long as they are taking steps in 2015 towards offering such coverage. However, this transition relief is not available to the extent the employer had offered dependent coverage in the 2013 or 2014 plan years but subsequently dropped that offer of coverage. Note that the ACA defines a dependent as an employee's child under the age of 26, and expressly excludes spouses, step-children, and foster children.

### Clarifications on Issues Impacting Employers

The final regulations provide a number of clarifications for employers. While some questions remain, others have been addressed. For instance, the final regulations shed light on how to treat volunteers and seasonal employees for the purposes of the ACA:

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- “Bona fide volunteers” do not count as full-time employees for the purpose of determining employer size or offering health care coverage. A “bona fide volunteer” is a volunteer who is an employee of a government entity or a 501(c) non-profit organization but whose only compensation from that entity or organization is reimbursement for reasonable expenses or reasonable benefits and nominal fees. For example, certain volunteer firefighters would fall under this exception.
- The final regulations provide a definition for “seasonal employees,” which was noticeably missing from prior proposed regulations. A “seasonal employee” is defined as an employee in a position for which the customary annual employment is six months or less. The reference to “customary” indicates that the position must begin in the same part of the year each calendar year, such as summer or spring.

Other changes and clarifications address the safe harbor methods for determining affordability, employer reporting requirements, and methods for calculating hours of service. This Client News Brief is meant to provide a snapshot of some of the key changes implemented by the final regulations. The full text of the final regulations can be found on the [Federal Register website](#).

The Treasury and the IRS have announced that the next step in ACA implementation will be to issue final regulations simplifying and streamlining the employer information reporting requirements.

For assistance in dealing with ACA matters, including navigating the complex and evolving rules and regulations, please feel free to contact one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).