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Subject: Comment/Question on 90 day Waiting Period Limitation
Date: Wednesday, September 05, 2012 6:55:01 PM

Hello – On behalf of several of our clients, we would like to ask a couple questions regarding the application of the full time employee definition and the 90 day waiting period limitation as discussed in 2012-58 and 2012-59.

Q. – Our current waiting period before health insurance benefits are effective is defined as “the first of the month following completion of 90 days of eligibility”. Do the following examples pass the new 90 day limitation guidance? Allow us to give several examples:

1. First example, a benefit eligible employee is hired on January 1st. He/She would work 31 days in January, 28 days in February, 31 days in March and the first of the month following completion of their 90 day waiting period is April 1st.

2. Second example, a benefit eligible employee is hired on January 2nd. He/She would work 30 days in January, 28 days in February, 31 days in March, 1 day in April and the first of the month following completion of their 90 day waiting period is May 1st.

3. Third example, a benefit eligible employee is hired on March 1st. He/She would work 31 days in March, 30 days in April, 29 days in May, and the first of the month following completion of their 90 day waiting period is June 1st.

Q. – Our first plan year after January 1, 2014 begins on March 1, 2014. Will we become subject to the new health care reform provisions such as 2012-59, the 90 day waiting period limitation, and Notice 2012-58, the safe harbor methods to determine Full-Time Employees for Purposes of Shared Responsibility for Employers Regarding Health Coverage, on 1/1/2014 or 3/1/2014. If our March 1, 2014 anniversary becomes our effective date, will we or our employees be penalized under the individual mandate or the employer shared responsibility fee for the months of January and February 2014 if our plan is not in compliance until March 1, 2014?

We appreciate your consideration and response.

K

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