



Health Care Reform’s “Pay or Play” and Employer Reporting Requirements Delayed until 2015

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The Obama Administration last week announced that it will delay implementation and enforcement of the Affordable Care Act’s (ACA) shared responsibility provisions (commonly referred to as the “employer mandate” or “pay or play” rules). The pay or play rules require large employers – those with 50 or more full-time or full-time equivalent employees – to provide full-time employees access to affordable, minimum essential health coverage. A large employer that does not provide access to such coverage may be assessed a fee, known as a “shared responsibility payment,” if one or more of its employees purchases health insurance through an affordable insurance exchange in their state and obtains a tax credit for the premiums paid for that coverage. These provisions were originally set to take effect on January 1, 2014. However, in a [blog post](#), the Treasury Department announced that implementation and enforcement is being delayed until 2015. The White House reiterated this decision in its own [blog post](#).

The delay in the pay or play rules was triggered by the Treasury Department’s announcement that it would postpone until 2015 the ACA requirement that employers begin reporting in 2014 certain details about how many full-time employees they have, the health plans they offer to those employees, and which individuals enrolled in those plans. The Administration is delaying the reporting requirements due to employer concerns about their complexity and the need for more time to implement them. Without required employer reporting, the IRS will not be able to determine which employers owe shared responsibility payments for 2014. Therefore, the IRS is delaying enforcement of the pay or play rules.

This week, the IRS issued guidance on the delayed implementation of both of these provisions in [Notice 2013-45](#). The notice states that the delay will allow employers and the IRS to work towards simplifying the reporting requirements and that proposed rules regarding those requirements are expected this summer. The additional year will also allow employers more time to develop reporting systems to implement the rules. Although reporting is not required in 2014, the IRS encourages employers to voluntarily comply once the rules have been issued. The notice also encourages large employers to maintain or expand health coverage for full-time employees, even though the IRS will not assess employer shared responsibility payments in 2014. Finally, the IRS stated that this delay will not affect employees’ eligibility for premium tax credits or cost-sharing reductions if they enroll in a health plan through an affordable insurance exchange. Employees may be eligible for cost-sharing reductions or tax credits if their household income is within a specified range and they are not eligible for other minimum essential health coverage, including an eligible employer-sponsored plan that is affordable and provides minimum value.

On a related note, the U.S. Department of Health and Human Services issued [final regulations](#) this week spelling out the process that exchanges will use to verify whether individuals who apply for advance payment of premium tax credits are ineligible for the credits because they are enrolled in employer-sponsored health coverage or are eligible for employer-sponsored health coverage that meets affordability and minimum value standards.

What does this mean for Community Action Agencies? The delay in implementation effectively means that large employers will not need to provide full-time employees access to affordable, minimal essential health coverage until 2015. Shared responsibility payments will not be assessed until 2015 for large employers who elect not to provide coverage. Employers will also have an additional year before they must begin reporting particular information about employees and health plans to the IRS; although the IRS is encouraging employers to report this information voluntarily once the rules are issued. Continue to watch for the proposed rules later this summer. For more information on the employer “pay or play” requirement, see the following two articles from the Spring 2013 CAPLAW Update newsletter: [Health Care Reform “Pay or Play” Q&A](#) and [Determining Whether Your Organization Is a Large Employer](#).