



SESSION
CASES

legislativeUPDATE

January 25, 2013

Exchange Notice Delayed

The IRS has issued [Frequently Asked Questions \(FAQs\)](#) regarding implementation of various provisions of the Affordable Care Act. These FAQs provide that until regulations are issued and become applicable, employers are not required to comply with the "Notice of Coverage Options Available Through the Exchanges" as originally due to be provided to employees by March 1, 2013.

The health care reform law as originally written requires that employers provide all new hires and current employees with a written notice about the health benefit Exchange and some of the consequences if an employee decides to purchase a qualified health plan through the Exchange in lieu of employer-sponsored coverage. This disclosure requirement is generally effective for employers beginning on March 1, 2013.

Regulations implementing the Notice of Exchange requirement are expected to be issued by the Department of Labor (DOL), but since these Exchange notice guidelines have not yet been published, the FAQs indicate that, until such regulations are issued and become applicable, employers are not required to comply with the notice requirement.

The FAQs provide that the DOL has concluded that the notice requirement will not take effect on March 1, 2013 for several reasons. First, this notice should be coordinated with HHS's educational efforts and IRS guidance on minimum value. Second, they are committed to a smooth implementation process including providing employers with sufficient time to comply and selecting an applicability date that ensures employees receive the information at a meaningful time. The DOL now expects that the timing for distribution of notices will be the late summer or fall of 2013, which will coordinate with the open enrollment period for Exchanges.

The DOL is considering providing model, generic language that could be used to satisfy the notice requirement. Future guidance on complying with the notice requirement is expected to provide flexibility and adequate time to comply.

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