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Pay or Play – Put Off Until 2015

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In our Alert a few months ago, we described the so-called "pay or play" penalty provisions affecting employers under the federal health care reform statute known as ACA (the Patient Protection and Affordable Care Act). Yesterday the Obama Administration informally announced that it will delay implementation of pay or play until 2015. Yesterday's announcement included a promise to publish formal guidance regarding this change within the next week.

Reducing the Complexity of ACA Implementation

The Administration cites complexity of the pay or play requirements as the reason behind this delay in implementation. In response to concerns by businesses that they need more time to understand and comply with the complex law, the Treasury Department states that they are looking to simplify the new reporting requirements. Mark Mazur, Assistant Secretary for Tax Policy at the U.S. Department of the Treasury, wrote: "Just like the Administration's effort to turn the initial 21-page application for health insurance into a three-page application, we are working hard to adapt and to be flexible about reporting requirements as we implement the law." Mazur states that the Administration will work with employers, insurers and other reporting entities to voluntarily implement information reporting in 2014 so that they may conduct "real world testing" of reporting systems which should lead to a smoother implementation in 2015.

Look for Additional ACA Guidance Soon

While employers certainly welcome the news that there is more time to comply with ACA mandates, the delay doesn't mean employers can take the summer off. As noted above, we can expect formal guidance on pay or play implementation in the next week, and additional action may be required after that. In addition, the Administration's announcement states a hope that employers will voluntarily comply with pay or play in 2014 (including the reporting systems), so that implementation in 2015 will go smoothly. Other provisions of ACA, such as the requirement that individuals have health insurance coverage or pay a penalty (the individual mandate), elimination of pre-existing condition exclusions, and the operation of health insurance exchanges, are still currently scheduled to go into effect on January 1, 2014.

If you have any questions about the pay or play penalty provisions of ACA or any other aspect of health care reform, contact a member of Holland & Hart's Benefits Law Group or Healthcare Law Group.

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