

Health Care Reform Management Alert Series



The Employer Coverage Tool and Exchange Verification of Employer-Sponsored Coverage Issue 70

This is the seventieth issue in our series of alerts for employers on selected topics in health care reform. (Click [here](#) to access our general summary of health care reform and other issues in this series.) This series of Health Care Reform Management Alerts is designed to provide an in-depth analysis of certain aspects of health care reform and how it will impact your employer-sponsored plans.

The Department of Health and Human Services (HHS) finalized portions of *regulations* originally proposed on January 14, 2013 (*see Issue 49*). The new final regulations were published in the Federal Register on July 15, 2013, and cover verification by a Health Insurance Marketplace (Exchange) of an individual's attestation regarding employer-sponsored coverage. HHS indicated that other aspects of the proposed regulations, including Exchange eligibility appeals, will be finalized at a later date. HHS also indicated that it is moving forward with its voluntary pre-enrollment template (proposed earlier) that an individual could present to his or her employer to complete with information about the employer's coverage.

Verification of Employer-Sponsored Coverage

Individuals who wish to apply for coverage through an Exchange and receive advance payments of a tax credit¹ or cost-sharing subsidy will be required to provide the Exchange with information about their enrollment in employer-sponsored coverage, or access to employer-sponsored coverage that is affordable and provides minimum value. This information is subject to verification by the Exchange through various data sources (e.g., data from HHS or sources approved by HHS). Under the final regulations, if the Exchange's data sources contain information that is inconsistent with the application, the Exchange must contact the applicant to try to resolve the discrepancy. If, however, the data sources do not contain information relevant to the applicant, the Exchange must take further steps to verify the applicant's statements regarding employer-sponsored coverage, such as contacting the employer of the individual (or a member of his or her household) for a random sampling of applicants. Exchanges have until 2015 to start performing the random sampling (for 2014 they can rely on the applicant's statements in the applications), though it appears that the federally-facilitated Exchanges will proceed with the sampling as scheduled. Accordingly, employers may still receive inquiries next year from an Exchange regarding their health coverage options.

The Employer Coverage Tool

HHS has issued the *Employer Coverage Tool* as part of the Exchange's Application for Health Coverage. This Employer Coverage Tool can be used as the pre-enrollment template to obtain information about the employer's coverage options. HHS anticipates employers will find additional ways to provide this information to their employees, including posting this pre-populated tool on a company website, or making this information available during benefit fairs. HHS also indicated that employers could combine the Employer Coverage Tool with the Exchange Notice (*see Issue 63*) and distribute them together. Completing the Employer Coverage Tool is optional, though employers likely will be asked for assistance in this regard.

¹ Instead of waiting and taking a credit on an income tax return, an individual may apply for an advance payment of the credit to help him or her pay for the premium during the coverage year.

Employer's To Do List:

- Review the Employer Coverage Tool
 - Determine whether to complete for employees upon request; or
 - Determine whether to pre-populate the tool (other than lines 1, 2 and 13) and distribute along with Exchange Notice or post online.

Also, follow the Health Care Reform Team on  [@SeyfarthEBLaw](https://twitter.com/SeyfarthEBLaw)

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