

**America's Health
Insurance Plans**

601 Pennsylvania Avenue, NW
South Building
Suite Five Hundred
Washington, DC 20004

202.778.3200
www.ahip.org



September 28, 2012

Office of Health Plan Standards
and Compliance Assistance
Employee Benefits Security Administration
Room N-5653
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Re: Technical Release 2012-02 (Guidance on 90-Day
Waiting Period Limitation)

Submitted Electronically: e-ohpsca-er.ebsa@dol.gov

Dear Sir/Madam:

America's Health Insurance Plans (AHIP) is writing to provide comments in response to Technical Release 2012-02 addressing the 90-day waiting period limitation that will be applied to group health plans beginning in 2014. The Technical Release implements Public Health Service Act (PHSA) section 2708 as amended by the Affordable Care Act. AHIP's members provide insurance and administrative services to group health plans and will be affected by the new waiting period limits as applied to health insurers and sponsors of group health plans.

Interaction of Waiting Period Limits with Plan Administration

Many employers administer health benefits to begin effective with the start of a month or an employee's pay period (e.g., health coverage will start on the 1st or 15th of the month). This approach allows the employer to provide employees with a specified date that coverage will commence and coordinate coverage with the first pay period that includes the salary reduction for the employee's share of the cost of coverage. As a result, the administration of benefits is simplified, especially in the case of smaller employers that may not have extensive payroll and human relations resources.

We support the decision by the Departments of Labor, Health and Human Services, and the Treasury (the "agencies") to provide employers with flexibility in establishing reasonable eligibility and administrative requirements in connection with the waiting period as long as the requirement is not "designed to avoid compliance with the 90-day waiting period." For example,

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employers are permitted to align the starting date of coverage with the first day of the payroll period after an employee completes required enrollment forms.

Similarly, we believe employers should be permitted to begin coverage as of the first day of the next payroll period or the first day of the next month after the end of the 90-day limitation period. This will allow employers to coordinate the employee's coverage with a payroll period or calendar month and will allow for easier administration of employee benefits.

Recommendation:

We recommend that the following example be adopted by the agencies through guidance:

Example: Employee E's full time date of hire is April 11. The employee completes and submits his enrollment form to the employer the first week of employment. The employer has a 90-day eligibility period before coverage can begin and also requires that coverage start on the first day of the following month to align the commencement of health coverage with the first pay period in which there is employee salary reduction to pay for the cost of the coverage. As a result, the employee's health coverage would be effective August 1st. This requirement is not designed to avoid compliance with the 90-day waiting period limitation since it is a standard industry practice for simplification of the administration of employee benefits.

Reliance on the Plan Sponsor's Designation of When Coverage Begins

Health insurers offering coverage to group health plans rely on the plan sponsor to notify the insurer when employees and dependents first become eligible for coverage. The employer typically informs the insurer of the number of covered lives under the plan at the same time payment is made for coverage (e.g., the employer submits the headcount and payment to the insurer on a monthly or quarterly basis). The insurer has no specific knowledge of the plan sponsor's policies and procedures with respect to eligibility for coverage, the existence and length of any waiting periods, and the date an employee or dependent first becomes eligible.

Health insurers should be able to reasonably rely on the plan sponsor to determine when an individual first becomes eligible for coverage under the plan and whether coverage will begin within any applicable waiting period.

Recommendation:

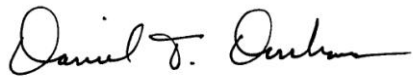
We recommend that the agencies adopt guidance clarifying that a health insurer may reasonably rely on the determination by a plan sponsor regarding when an individual becomes eligible for coverage under the plan and whether the start date of such coverage is within the 90-day waiting period specified by PHSA section 2708.

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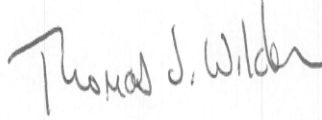
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AHIP appreciates the opportunity to provide comments regarding the Technical Release. Please feel free to contact us if you have any questions.

Sincerely,



Daniel T. Durham
Executive Vice President
Policy and Regulatory Affairs



Thomas J. Wilder
Senior Counsel