



Health Care Reform Update



IMPORTANT NOTICE REGARDING HEALTHCARE REFORM Update #52 October, 2015

Legislation Revises Small Employer Definition Under Health Care Reform

Congress has passed and the President has signed legislation that amends the “small employer” definition for purposes of health care reform’s insurance market and exchange provisions. Under the insurance market provisions originally enacted by health care reform, a small employer is one that employed not more than 100 employees in the preceding calendar year. Prior to health care reform, the federal-law threshold had been 50 employees; states could continue to use this cutoff prior to the 2016 plan year. The legislation restores the pre-health care reform insurance market cutoff of 50 employees, with an option for states to extend the cutoff to 100 employees. In addition, the revised definition of small employer limits employer size for purposes of participation in the SHOP exchanges to no more than 50 employees (unless a state elects to extend the cutoff to 100 employees). Note that, beginning in 2017, states may extend their SHOP Exchanges to the large group market.

The State of Iowa has confirmed they will leave the small group cutoff at 50 employees.

The 100-employee cutoff had been a concern because it shifted mid-size employers (those with 51 to 100 employees) to the small group market, where additional insurance market reforms apply. For example, insurers in the small group market are limited in the factors they can use to set premium rates and must cover certain items and services deemed to be “essential health benefits” (e.g., prescription drugs and emergency services). As a result, premiums for small market groups may be greater than those for large market groups.

CMS had previously announced transition relief allowing insurers in the small group market to renew policies for policy years beginning before October 1, 2016 that would otherwise have been canceled due to noncompliance with the insurance market reforms; this relief also applied to mid-size employer. Note that the legislation does not change any of health care reform’s other employer-size requirements, i.e., the applicable large employer (ALE) definition under the employer shared responsibility provisions remains unchanged

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