

## Healthcare Reform February 2014

On January 9, 2014, the U.S. Labor Department, the U.S. Department of Health and Human Services (HHS) and the U.S. Treasury Department (the “Departments”) released additional Frequently Asked Questions (FAQs) regarding the implementation of the market reform provisions of the Affordable Care Act (“ACA”). Included in this release (see FAQs 6 and 7) are some changes and updates to the temporary transitional relief for certain expatriate plans that was described in the March 8, 2013 FAQs from the Departments. The main changes are:

- Clarification that the 12-month period out of which the primary insureds have to reside outside of their home country for at least 6 months in order for the expatriate plan to qualify for the relief can fall within a single plan year or across two consecutive plan years.
- Expansion of the transitional relief to also exempt covered expatriate plans from:
  - Minimum essential benefits requirements
  - Reinsurance assessment (from which expatriate plans were already exempted under previous HHS regulations)
- Extension of the transitional relief to plan years ending on or before December 31, 2016 (prior to the new FAQs the relief only applied to plan years ending on or before December 31, 2015).

Below is a summary fact sheet summarizing the main features of the temporary transitional relief and highlighting the changes and updates introduced by the January 2014 FAQs (noted in **bold**).

### ***Is my company’s expatriate medical plan impacted?***

In order to qualify for the transitional relief an expatriate group health plan must:

1. Be a fully-insured arrangement;
2. Limit enrollment to individuals **from whom there is a good faith expectation that they will** reside outside of their home country for at least six months **of a 12 month period with the 12 month period occurring within a single plan year or across two consecutive plan years** and any covered dependents; and
3. Comply with pre-ACA law under the Public Health Service Act (PHSA), ERISA and the Internal Revenue Code.

### ***If my company’s plan qualifies, which provisions will the plan see temporary relief from?***

If you meet the criteria noted above, your expatriate medical plan will be exempt from most ACA provisions through the transitional period, including the following:

- Minimum essential benefits requirements
- Reinsurance assessment
- Prohibitions on lifetime and annual dollar limits
- Prohibition on rescissions
- Preventive services without participant cost sharing
- Medical plan eligibility for dependent children up to age 26
- Summary of Benefit and Coverage (SBC) and uniform glossary, and 60-day advance notice of material

modifications

Prohibition on discrimination in favor of highly compensated employees (HCEs)

Elimination of pre-existing condition exclusions

Medical loss ratio requirements

New ACA internal claim and appeal, and external review requirements

Prohibition on waiting periods in excess of 90 days

***What is the timing of this temporary relief?***

The transitional relief has been **extended** to plan years ending on or before **December 31, 2016**.

Therefore, if you are a calendar-year plan, relief will apply for 2014, 2015 and 2016 plan years.

***Am I required to make any changes to my plan?***

No changes are required at this time. However, you will have new plan design flexibility during this transitional relief period to make changes if you so choose. Please feel free to contact us to discuss any plan design changes you may desire.

**We encourage you to review the FAQs guidance with your legal and tax advisors and discuss its impact on your plan. The FAQs can be read online at:**

**January 2014 Release: [dol.gov/ebsa/faqs/faq-aca18.html](http://dol.gov/ebsa/faqs/faq-aca18.html)**

**March 2013 Release: [dol.gov/ebsa/faqs/faq-aca13.html](http://dol.gov/ebsa/faqs/faq-aca13.html)**

We are committed to delivering service excellence which includes keeping you informed about how the changing legislation impacts your expatriate plan insured with us. If you have any questions or concerns about this or the impact of the ACA on your plan, please don't hesitate to reach out to us.