

COMPLIANCE ALERT

Tuesday, August 7, 2018

Federal Agencies Release Final Regulations for Short-Term Limited Duration Insurance Coverage

The DOL, DHHS, and IRS recently released final regulations for short-term limited duration insurance policies (STLDI) that make several changes to the existing STLDI rules and also affect how these policies interact with other laws. The final regulations become effective this Fall. STLDI coverage is intended to provide individuals who experience short-term gaps in medical coverage with a cost-effective alternative to the more comprehensive and expensive coverage available through the public health insurance exchange (the “Marketplace”), COBRA, or through other coverage continuation laws. Offering STLDI coverage to employees (or former employees) is not a viable employer strategy as the coverage will lose its STLDI protection under the final regulations.

Under the final regulations:

- STLDI coverage is not required to meet the ACA’s plan design mandates, meaning it may have annual or lifetime dollar maximum limits, pre-existing condition exclusions, exclusions for ACA-mandated benefits, etc.
- The permitted duration for an STLDI policy increases from 3 months to 364 days, and it may be renewed for up to 36 total months.
- STLDI coverage does not qualify as minimum essential coverage (MEC) for the purposes of satisfying the ACA’s individual mandate tax penalty. This penalty is charged when a taxpayer fails to maintain MEC for the tax year. The Tax Cut and Jobs Act of 2017 eliminates the penalty starting in 2019, so this issue will go away.
- Insurance carriers are permitted to subject applicants to underwriting and may decline coverage.
- A loss of STLDI coverage will not trigger mid-year election rights through the Marketplace.

Insurance carriers are not required to offer STLDI coverage. Insurance carriers are required to provide a notice with the application materials to educate applicants about the limitations of these plans. The final regulations also note that states can mandate additional limitations on these plans.

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