



90 Days Waiting Period

78 FR 17313 (March 21, 2013)

General points:

- Employers are not required to offer health insurance to employees, but if they do, the waiting period is limited to 90 days maximum.
- Beginning January 1, 2014, this regulation applies to grandfathered and non-grandfathered plans
- Insurers can rely on the eligibility information provided by the employer/plan sponsor
- Note: This regulation is a proposed rule. If the final regulation or other guidance is more restrictive, they will not be effective until January 1, 2015. (In other words, employers & carriers can rely on this proposed rule during 2014.)

Calculating 90-day period

Calendar count eligibility

- Count all days including weekends and holidays
- If the 91st day is a weekend or holiday, then coverage should be effective before the 91st day

Hours of service eligibility

- Calculated based on specified number of hours of service per period (30 hours/week or 250/quarter)
- Cumulative hours of service requirement: 1,200 hours maximum to become eligible

Variable-hour employee eligibility

- If eligibility is based on hours of service per period (example: 30 hours/week or 250 hours per quarter), how should variable-hour employees be treated?
 - Employer may take a “reasonable period of time” to verify eligibility:
 - ❖ Measurement period: up to 12 months, beginning at any time between the employee’s start date and the first day of the first calendar month following the start date
 - ❖ Employee’s coverage is effective no later than 13 months from employee’s start date, with the 90 days included in the 13-month period;
 - ❖ If the employee’s start date is not the first day of the month, the days of this (partial) month can be ignored in count during 13-month period
 - Example: Employee begins work on May 1. Begin count on any date between May 1 and May 31. Measurement period: 12 months. Employee’s coverage is effective 13 months from employee’s start date on June 1st.



- Example: Employee begins work on May 15, 2013. Begin count on any date between May 15 and May 31. Employee is eligible 13 months later on June 1, 2014. (Ignore the days in the partial month of May 2013)

Do you have questions about the information in this paper? Would you like to know more about this important topic?

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