



Compliance Recap

November 2015

As 2015 winds down, federal agencies are working to provide updates and proposed or final regulations. The Patient Protection and Affordable Care Act's (ACA) auto-enrollment requirement was repealed, implications of the PACE Act were clarified, a proposed rule relating to the Genetic Information Nondiscrimination Act (GINA) and wellness programs was released, and a final rule on grandfathered health plans was issued, to name a few.

UBA Guides and Compliance Documents

UBA released the [2016 annual benefit card](#).

UBA released a [table](#) of the various state by state definitions of "small employer" in the wake of the PACE Act. This table will be updated every month if changes occur.

UBA released a [template letter](#) that employers can use to create communications to employees about IRS reporting forms that employees will be receiving.

UBA updated the [annual notices packet](#) as well as the [Employer's Guide to Annual Group Health Notices](#).

FAQ on Mental Health Parity and the ACA

In October 2015, the Department of Labor (DOL) provided an [informational FAQ](#) relating to the Mental Health Parity and Addiction Equity Act (MHPAEA) and ACA market reform provisions.

Non-grandfathered group health plans and individual or group market health insurance must cover a variety of preventive services without any cost-sharing requirements. Required preventive services include "breastfeeding comprehensive support and counseling from trained providers, and access to breastfeeding supplies," obesity screening and weight management services for certain individuals, colonoscopies for certain age groups, and contraception coverage for women.

[Read more about the DOL's FAQ.](#)

ACA Auto Enrollment Requirement Repealed

The ACA initially required employers with more than 200 full-time employees and that offer employees one or more health benefit plans to automatically enroll (and re-enroll existing) full-time employees into one of the health plans (subject to any waiting period authorized by law), in accordance with DOL regulations.

Following [delays](#) in the DOL regulation, the "[Bipartisan Budget Act of 2015](#)," which was signed by President Obama on November 2, 2015, repealed the auto-enrollment requirement.

Employers are still free to use default or negative elections for employee enrollment, but employers with more than 200 employees are not longer required to do so.

EEOC Proposes Rule Relating to GINA and Wellness Programs

On October 30, 2015, the Equal Employment Opportunity Commission (EEOC) issued a [proposed rule](#) to amend the regulations implementing Title II of the Genetic Information Nondiscrimination Act (GINA) as they relate to employer wellness programs that are part of group health plans. The proposed rule would allow employers to offer financial incentives and inducements to spouses who offer information about current or past health status as part of a wellness program.

[Read about the EEOC's proposed rule.](#)

Final Rule on Grandfathered Health Plans

On November 13, 2015, federal agencies issued a [final rule](#) that essentially combined a variety of interim final rules and non-regulatory guidance on a variety of ACA initiatives such as grandfathered health plans, preexisting condition exclusions, internal and external appeals, rescissions of coverage, lifetime and annual limits, emergency care access and dependent coverage. The final rule was very similar to the previous guidance it consolidated. The final rule goes into effect on January 1, 2017. At that time all of the prior interim rules will be superseded.

The final rule also noted that various transitional rules are now void, such as the allowance of grandfathered health plans to exclude children under age 26 who were eligible for other group health plan coverage, and rules that provided a special enrollment period for children under age 26 who had been excluded from coverage.

[Read more about the final rule on grandfathered health plans and more.](#)

PACE Act Clarifications from CMS

The Providing Affordable Coverage for Employees (PACE) Act amended the ACA and redefined small employers as those with 50 or fewer employees; it also gives states the option to expand the definition to include employers with up to 100 employees (or, practically speaking, those with 51 to 100 employees, also called "mid-size employers"). Prior to the ACA, all states defined small employers as those with 1 to 50 or 2 to 50 employees; however, many have passed legislation redefining the group size up to 100 employees beginning in 2016. States are now in the process of determining what they define as "small employer."

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The Centers for Medicare & Medicaid Services (CMS), in response to the PACE Act, [issued an FAQ](#) on the impact of the PACE Act on small group expansion. CMS clarified that states that choose to expand the definition up to 100 employees beginning January 1, 2016, were required to notify CMS of the decision by October 1, 2015. States with other effective dates should notify CMS of the decisions as soon as is practical. A state's definition is legally binding on health insurance issuers.

[Read more about CMS' clarifications.](#)

Question of the Month

Q. May an employer fill out 1094-B, 1095-B, 1094-C, and 1095-C forms by hand or must they be typewritten?

A. Although handwritten forms will be accepted, the IRS prefers that filers type or machine print data entries.

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