

HEALTH CARE REFORM: TERMINATING COVERAGE OF DEPENDENTS AT AGE 26

A common question employers offering dependent coverage ask is whether they are required to offer coverage until the end of the month in which a dependent turns 26 or can they terminate coverage on the dependent's 26th birthday. As with most questions about the Affordable Care Act (ACA), the answer is complicated. Why? Because there are two separate, and seemingly contradictory, ACA provisions pertaining to coverage of dependents to age 26.

The first provision requires plans offering dependent coverage to extend coverage until the dependent reaches age 26. Under this requirement, plans can terminate coverage on the dependent's 26th birthday. The second provision is part of the Employer Mandate, which requires certain large employers to offer affordable, minimum value coverage to their ACA defined full-time employees and dependents or risk paying a penalty. To be treated as offering coverage for a month, the employer's offer must extend through the entire month. This means, technically, that the employer should extend coverage until the end of the month in which a dependent turns 26 in order to avoid a potential penalty; however, in practical terms, terminating coverage on the dependent's birthday is unlikely to result in a penalty.

MEASURING THE PENALTY RISK

There are two penalties under the Employer Mandate – the “A” and “B” penalties. The key to triggering either of these penalties is that an ACA defined full-time employee needs to buy coverage through an Exchange and qualify for a premium tax credit. What would the “A” or “B” penalty risk be if an employer terminates dependent coverage on the 26th birthday rather than at the end of the month?

Keep in mind, that for purposes of the Employer Mandate only, the definition of dependent is limited to include children (as defined in Internal Revenue Code section 152(f)(1)) but excludes stepchildren, foster children, and spouses. Let's consider a child who turns 26 on March 15th:

- **“A” Penalty:** An employer may be subject to this penalty if it fails to offer minimum essential coverage to at least 95% of its ACA defined full-time employees and their dependents (i.e., children). If the employer terminates the child's coverage on March 15th, it is treated as though no offer of coverage was made to the child for the entire month of March. However, as long as the employer otherwise meets the 95% threshold for March, it will not be subject to the “A” penalty simply because it terminated that child's coverage mid-month. The key here is to ensure that terminating a dependent's coverage mid-month does not cause the employer to fall below the 95% threshold for the month.
- **“B” Penalty:** An employer may be subject to this penalty if it offers minimum essential coverage to at least 95% of its ACA defined full-time employees and their dependents (i.e., children) but: (1) does not offer it to all of its ACA defined full-time employees and their dependents, (2) offers unaffordable coverage, or (3) offers coverage that does not provide minimum value. Again, if the employer terminates the child's coverage on March 15th, it is treated as though no offer of coverage was made to the child for the entire month of March. However, if the employee is offered affordable, minimum value

coverage for March, then he/she will not be eligible for a premium tax credit and will not trigger the “B” penalty.

Terminating coverage on a child’s 26th birthday is unlikely to result in a penalty under the Employer Mandate; however, it will depend on an employer’s particular circumstances. Employers who are considering terminating coverage on a dependent’s 26th birthday, or who already do, should carefully evaluate their risk exposure, especially with regard to the “A” penalty. Employers hovering near the 95% threshold should pay close attention to the impact terminating dependent coverage mid-month may have on meeting that minimum threshold.

OTHER CONSIDERATIONS

Terminating dependent coverage mid-month will also impact employer reporting on Internal Revenue Service Form 1095-C. Line 14 requires employers to use an “indicator code” to report the offer of coverage. Employers offering coverage to employees, dependents, and spouses generally use code “1E.” However, if a dependent’s coverage is terminated mid-month, code “1E” would not be appropriate for that month because the dependent is treated as if no offer of coverage was made for the month. Instead, employers would likely use “1B,” “1D,” or “1J” depending on the specifics of each employer’s offer of coverage.

For administrative simplicity, some employers may decide it is easier to extend the offer of coverage until the end of the month in which a dependent turns 26 rather than terminating mid-month. Those who currently terminate dependent coverage mid-month, or are considering doing so, should make sure they understand any potential penalty exposure and ensure that they are reporting the offer of coverage correctly on Form 1095-C.

Please contact your Keenan Account Manager for questions regarding this *Briefing* or if you require any additional information regarding the Affordable Care Act.

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