

Public Forum on Automatic Enrollment in Large Employer Health Plans

U.S. Department of Labor

April 8, 2011

1:00 p.m. to 5:00 p.m.

AGENDA

1:00 p.m. Opening Session

- Phyllis C. Borzi, Assistant Secretary, U.S. Department of Labor

1:15 - 2:15 Panel 1: Definition of full-time employee for purposes of the automatic enrollment provisions of section 18A of the FLSA

Moderator: Phyllis C. Borzi, Assistant Secretary, U.S. Department of Labor

Panelists:

- Amy Bergner – Partner, Mercer
- Ashley Gillihan – Counsel, Alston & Bird, LLP
- Erik R. Lieberman – Regulatory Counsel, Food Marketing Institute
- Manny Pastreich – Deputy Director of Collective Bargaining for Local 32BJ, SEIU

Panel 1 Discussion Topics

- What standards should be developed for the definition of full-time employee? Would a “look-back” standard or a “reasonably expects” standard work for an employer who does not know, prospectively, how many hours new employees will work? Over what time period should the number of hours worked be calculated (e.g., weekly, quarterly, etc)?
- What special considerations or circumstances exist with respect to particular workers, e.g., seasonal workers, temporary workers, or particular types of employers?
- Are there any special concerns that multiemployer plans or employers that participate in multiemployer plans will have with automatic enrollment? What current techniques for crediting and counting service for eligibility for health coverage under multiemployer plans should be taken into account for potential automatic enrollment regulations?
- What costs (including administrative costs) and benefits are associated with automatically enrolling new full-time employees in health plans and continuing enrollment of current employees in their existing plan? Do the costs and benefits vary depending on employer or workforce characteristics?

2:15 - 3:15 Panel 2: Selection of plan, benefit package and coverage (if employer maintains more than one) in which employees would be automatically enrolled for purposes of the automatic enrollment provisions of section 18A of the FLSA

Moderator: John J. Canary, Deputy Director of the Office of Regulations and Interpretations, U.S. Department of Labor

Panelists:

- Helen Darling – President and CEO, National Business Group on Health
- Jennifer Henrikson – Senior Counsel, ERISA Health and Welfare Outsourcing, Aon Hewitt
- J. David Johnson – Senior VP, Riggs, Counselman, Michaels & Downes
- Scott Kennedy – VP, Pay & Benefits, Target Corp.

Panel 2 Discussion Topics

- What coverage should new full-time employees be enrolled in (e.g., self-only coverage or family coverage)? Are there concerns regarding identification of an employee’s spouse and dependents for automatic enrollment purposes?
- What plan and benefit package (if more than one) should new full-time employees be automatically enrolled in (e.g., least expensive, most comprehensive coverage, fee-for-service plan, health maintenance organization, or shortest eligibility period)?
- Should action be required by the employee to maintain coverage? If action is required and a current employee fails to take that action, should the employee be re-enrolled in the same plan, the same benefit package and the same coverage?
- If a current employee’s plan, benefit package or coverage is no longer offered by an employer, in which plan, benefit package and coverage should the employee be re-enrolled?
- What automatic enrollment procedures are currently used by employers when a plan, benefit package within a plan, or coverage is no longer offered by an employer?
- Are there concerns that certain default options for automatic enrollment will lead to some employees having coverage they do not want or some employees obtaining lower levels of health care coverage than they would have elected otherwise?

3:15 - 3:30 Break

3:30 - 4:30 Panel 3: The adequate notice and opportunity to opt out requirements under the automatic enrollment provisions of section 18A of the FLSA

Moderator: Janet Walters, Senior Advisor and Special Projects Manager, Office of Regulations and Interpretations, U.S. Department of Labor

Panelists:

- Jacquelyn M. Abbott – Supervising Tax Counsel, Exxon Mobil Corp.
- Randy G. DeFrehn – Executive Director, National Coordinating Committee for Multiemployer Plans
- Belinda Kitts – VP of Human Resources, Ruby Tuesday, Inc.
- Dania Palanker – Healthcare Policy Coordinator, SEIU

Panel 3 Discussion Topics

- What standards should be developed for the employee notice requirement?
- What should be the latest date on which an employee should be able to opt out of coverage (e.g., the first withholding of a premium payment) and how far in advance of an opt out date should notice be furnished to employees concerning automatic enrollment and opt out rights?
- What costs would be incurred to establish and operate policies and procedures for expeditiously disenrolling employees who opt out of coverage?
- What rules should apply with respect to refunds, if any, to an employee for premium contributions withheld from pay when an employee opts out of coverage or changes coverage after being automatically enrolled or re-enrolled?
- Are you aware of health plans that currently automatically enroll full-time employees? What percentage of auto-enrolled employees switched to a different plan or opted out of coverage?

4:30 - 5:00 Final Discussion and Closing Remarks