

April 9, 2012

**Submitted electronically via:** [e-ohpsca-er.ebsa@dol.gov](mailto:e-ohpsca-er.ebsa@dol.gov)

Office of Health Plan Standards and Compliance Assistance  
Employee Benefits Security Administration  
Room N-5653  
U.S. Department of Labor  
200 Constitution Ave. NW  
Washington DC, 20210

**RE: Frequently Asked Questions From Employers Regarding Automatic Enrollment,  
Employer Shared Responsibility, and Waiting Periods (Notice 2012-17)**

Dear Sir or Madam:

HR Policy Association (“HR Policy” or the “Association”) supports, and incorporates by reference, the comment letter dated April 5, 2012 filed by the Employers for Flexibility in Health Care coalition to Notice 2012-17 which describes the approach under consideration by the Departments of Health and Human Services, Labor and Treasury (the “Agencies”) to implement the shared responsibility provisions, 90-day limitation on waiting periods for group health plans, and coordination of those provisions as implemented under the Patient Protection and Affordable Care Act (PPACA). Moreover, HR Policy welcomes the opportunity to provide specific comments on the Agencies’ approach to the application of PPACA’s 90-day waiting period limitation with respect to part-time employees.

HR Policy Association represents the chief human resource offices of more than 330 of the largest employers in the United States. Collectively, their companies employ more than 10 million employees in the United States, nearly nine percent of the private sector workforce. Together the member companies spend more than \$80 billion annually providing health insurance to tens of millions of American employees, their dependents and retirees. As the senior human resource executive for their companies, HR Policy Association members play a lead role in health care strategy, design, and implementation, and they are responsible for health care strategy, design, and the implementation of changes required by PPACA.

PPACA requires that large employers must offer health coverage to full-time employees and that such coverage is “affordable” and provides “minimum value” or they must pay a penalty when any full-time employee receives subsidized coverage through a health insurance exchange. However, this mandate does not apply to employees working less than full-time (i.e., part-time employees). Even so, if an employer decides to provide coverage for part-time employees the plan must comply with the law’s numerous new group market insurance reforms including prohibiting plans from having waiting periods that exceed 90 days.

The Association is pleased with the Agencies’ approach in the Notice that would permit employers to continue to set plan eligibility requirements such as hours-of-service or job

category requirements which must be satisfied *before a plan's waiting period begins to run*. Yet, while we are optimistic about the direction of this approach, we are concerned that Notice indicates that future regulations will provide a cumulative hours of service eligibility requirement that is quite limited.

The Notice explains that future regulations will specify the cumulative number of hours within a specific time period (e.g., 12 months) that a plan could permissibly use as an hours of service eligibility criteria such as a 750 hours of service requirement, which is provided in an example. It is the Association's understanding and concern that the Agencies are seriously considering adopting a 750 cumulative hours of service requirement in the future regulations. We believe that this would limit the flexibility of and apply undue pressure on employers who are voluntarily providing health care benefits to part-time employees. The Association is concerned that if employers' flexibility is significantly curtailed with respect to providing coverage for part-time employees then companies may very well reconsider the feasibility and affordability of offering any coverage to part-time employees. Accordingly, we request that the Agencies provide more flexibility with respect to the cumulative hours of service eligibility requirement that will be addressed in future regulations.

\* \* \*

Thank you for the opportunity to submit comments on these important issues. If the Association can be of further assistance, please contact Michael Peterson at 202-789-8659 or [mpeterson@hrpolicy.org](mailto:mpeterson@hrpolicy.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Peterson', written in a cursive style.

Michael Peterson  
Vice President, Benefits & Employment Policy  
Associate General Counsel  
HR Policy Association