WARNER

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COMPLIANCE CHRONICLE

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Navigating the ever-evolving landscape of compliance can be challenging and time-consuming. Warner Pacific is happy to share monthly updates to help your organization stay informed about new requirements and minimize compliance risks.

Let us handle the complexities, so you can focus on what matters most — your business.

Understanding Employer Risk: When MEC Coverage Shields You — And When It Doesn't

We frequently get questions about the potential penalties employers could face when offering Minimum Essential Coverage (MEC) plans that are not considered minimum value or affordable.

If an employer offers this type of coverage, they are protected from the biggest penalties under Penalty A, regardless of whether individual employees accept coverage. But they are not necessarily protected from Penalty B, which relates to affordability and minimum value.

However, if the employee accepts coverage under the MEC plan, the employer is protected from Penalties A and B. Here's why: By accepting the coverage, the employee is not eligible for a premium tax credit through the state exchange, and the penalty is only triggered by an employee applying for — and receiving coverage and a premium tax credit — through the exchange.

Therefore, if an employee accepts the coverage that is offered, the employer will not be penalized for the Part B penalty relative to that employee.

The excerpt below was taken from IRS guidance on this topic:

Am I eligible for the Premium Tax Credit if I enroll in coverage through an employer and also enroll in coverage through the Marketplace?

Answer: If you enroll in an employer-sponsored plan, including retiree coverage, that is minimum essential coverage you are not eligible for the Premium Tax Credit for your Marketplace coverage, even if the employer plan is unaffordable or fails to provide minimum value. You may be eligible for a Premium Tax Credit for coverage of another member of your family who enrolls in Marketplace coverage and is not enrolled in the employer plan.

The Truth Behind Health Plan Eligibility After FMLA Leave

Earlier this year, an employee took Family and Medical Leave Act (FMLA) leave to care for their immediate family member with a serious health condition. The employee's health plan coverage continued during the leave, with the employee's share of the premium being paid from their Paid Time Off (PTO) benefits.

The employee's FMLA leave will end soon, although the employee will be taking an extended leave of absence and not returning to work right away. Should the employee's health plan coverage be canceled?

Answer: The federal FMLA includes specific rules regarding employees' health plan coverage. During any FMLA leave, an employer must maintain the employee's coverage under any group health plan on the same terms as if the employee continued to work. This obligation to maintain health plan coverage during FMLA leave ends when an employee fails to return from leave; informs the employer of their intent not to return to work; or continues on leave after exhausting their FMLA leave entitlement.

To determine whether an employee's health coverage should be canceled during an extended leave, the employer should review its health plan documents and leave policies.

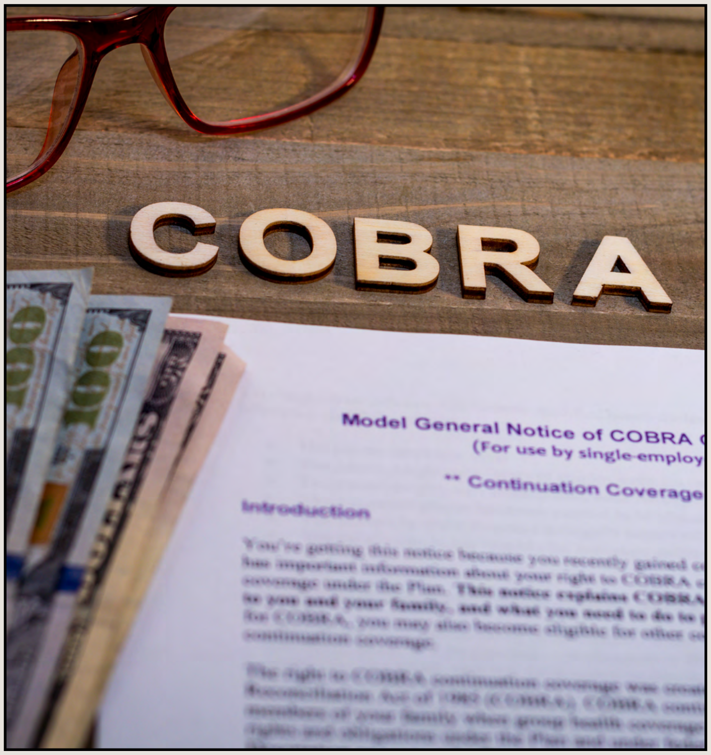
Most health plans require employees to work a minimum number of hours to be eligible for health coverage, subject to certain exceptions (such as the requirement to continue coverage during FMLA leave). The health plan's eligibility rules may specify how long an individual is eligible for coverage after FMLA leave has expired.

Also, an employer's leave policies may include rules for health plan coverage that are more generous than the federal FMLA. Depending on location, an employer may be required to comply with state family and medical leave laws that provide more expansive rights than the FMLA. To help avoid unintended liability, an employer's leave policies regarding health coverage should be consistent with the terms of its group health plan, including any applicable insurance policies.

If an employee's health plan coverage ends when their FMLA leave is over, the employer may be required to provide the employee with an opportunity to continue their coverage under COBRA (or a state continuation-coverage insurance law). In this situation, the COBRA-qualifying event occurs on the last day of the FMLA leave period.

COBRA coverage can last up to 18 months following a termination of employment or reduction in hours.
In most cases, employees are responsible for paying the entire premium for COBRA coverage (up to 102% of the applicable premium).

An employer's COBRA election notice should describe the plan's procedures for COBRA premiums, including payment due dates and the applicable grace period. Coverage may terminate early if payment is not received by the end of the grace period.



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