
Employers Prohibited From Reimbursing Individual Plan Premiums Even On An After-Tax Basis

By Kristi R. Gauthier / Nov 07, 2014

The Department of Labor ("DOL") released new Affordable Care Act FAQs making it clear that employers are prohibited from providing a cash reimbursement to employees for the purchase of an individual market policy regardless of whether the reimbursement is on a pre-tax or after-tax basis. The DOL considers these types of arrangements to be "group health plans" and subject to the market reform provisions of the Patient Protection and Affordable Care Act; a group health plan that simply reimburses premiums will not satisfy these market reform provisions and will therefore violate the Affordable Care Act. Violation of these requirements can result in substantial excise taxes to the employer.

Simultaneously, additional FAQs were issued to clarify that employers may not offer employees with high claims risk a choice between enrollment in its standard group health plan and cash, as well as prohibiting the use of vendor sponsored Section 105 reimbursement plans as a way to assist eligible employees in accessing premium tax credits on the Marketplace.

[Click here](#) for a copy of the latest FAQs.

If you have any questions about the subject matter of this e-alert or about health care reform in general, please contact Kristi Gauthier at kgauthier@clarkhill.com | (480) 684-1300; Ed Hammond at ehammond@clarkhill.com | (248) 988-1821; Nancy Farnam at nfarnam@clarkhill.com | (248) 530-6333; or Doug Ellis at dellis@clarkhill.com | (412) 394-2367.