VORYS

Publications

Labor and Employment Alert: Back to Basics - Summer Interns and the ACA Pay or Play Penalties

Related Professionals

Christine M. Poth

Jennifer Bibart Dunsizer

Elizabeth Howard

Related Services

Employee Benefits and Executive Compensation

Labor and Employment

CLIENT ALERT | 6.27.2016

You hired a summer intern who is eager to work as many hours as possible. If you allow the intern to work 30-plus hours per week during the summer, at what point would you have to offer medical coverage in order to avoid the risk of Affordable Care Act (ACA) pay or play penalties?

Remember that ACA pay or play penalties are triggered by a full-time employee (i.e. an employee who averages more than 30 hours per week) (Full-time Employee) (a) to whom you have not offered affordable adequate medical coverage, and (b) who buys an individual medical insurance policy with federal premium assistance. Part-time employees and employees in a "limited non-assessment period" do not trigger ACA pay or play penalties.

By now, you have picked one of the two options for identifying Full-time Employees for purposes of the ACA pay or play penalties: the look-back measurement method or the monthly measurement method.

Look-Back Measurement Method

If you are using the look-back measurement method of identifying Full-time Employees, a summer intern will probably terminate employment before the date you would otherwise have to offer medical coverage in order to avoid the risk of ACA pay or play penalties.

For purposes of the ACA pay or play penalties, a seasonal employee is an employee holding a position for which the customary annual employment is six months or less. Therefore, an intern hired to work in a position that is typically only filled during the traditional summer break between spring and fall school semesters can be classified as a seasonal employee.

The significance of the seasonal employee classification is that you can measure a seasonal employee's hours over an initial measurement period. You use the same initial measurement period (typically, 12 months) for a seasonal employee as you use for a new part-time employee regardless of whether the seasonal employee is expected to work 30 or more hours per week.

A summer intern is not classified as a Full-time Employee during his or her initial measurement period. Rather, the summer intern is in a “limited non-assessment period” during which no penalties are assessed. The summer intern never becomes an Full-time Employee if he or she terminates employment at the end of the summer (and before the end of the initial measurement period). Because the intern does not become a Full-time Employee, there is no risk of penalties even though you did not offer coverage during the summer months in which the intern was working 30 or more hours per week.

One note: If the unexpected happens and the intern transitions to an ongoing (non-seasonal) position working 30 or more hours per week, you would need to offer health coverage no later than the first day of the fourth calendar month after the transition.

Monthly Measurement Method

If you are using the monthly measurement method, you determine an intern’s status as a Full-time Employee on the same basis as you would for any other employee: you check hours during each calendar month of employment. There is no special rule for seasonal employees.

You may have a waiting period of up to 90 days for new employees including a newly hired summer intern. The waiting period is a “limited non-assessment period” provided that employees are offered medical coverage after completing the waiting period (assuming they are still employed).

If you are using the monthly measurement method, it is likely that a summer intern may need to be offered coverage under your group health plan if your plan does not impose a waiting period, or if the summer intern’s employment extends beyond the plan’s waiting period.