

# REFORM UPDATE

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## SHORT-TERM LIMITED DURATION MEDICAL INSURANCE

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The DOL, HHS, and IRS (the Departments) recently issued final regulations for short-term limited duration medical insurance (STLDI). These policies are limited to just three months and they do not offer minimum essential coverage (MEC). MEC is the coverage you need to avoid paying a tax penalty under the individual mandate. These plans need not comply with the ACA coverage mandates or rating rules. The Obama administration limited their duration to three months to align with the three-month coverage gap permitted before the individual mandate is assessed.

President Trump's October 2017 executive order on health care included the intention of expanding these STLDI policies. Effective as of October 2, 2018, final rules materially change short-term medical plans. Changes include:

- Contract duration can be extended to 364 days.
- Plans can be renewed or extended to a maximum coverage period of 36 months.
- A notice must be included with all enrollment materials for these policies. It should warn consumers that short-term, limited-duration policies do not need to comply with certain federal health insurance mandates (principally those contained in the ACA). It should include specific wording on potential exclusions or limitations of preexisting conditions or of certain benefits. It should also state that the policy might have lifetime and annual dollar limits on health benefits.

The final rules allow states to add more restrictions. Insurance carriers will also have the ability to customize coverage options. For example, as long as it does not violate state law, an insurance company can offer coverage with or without a guaranteed renewability clause. If a policy is guaranteed to be renewable, the carrier must offer the option to renew for up to 36 months. If the policy is not guaranteed to be renewable, the carrier can require medical underwriting and decline to renew the policy of anyone in poor health.

These policies will look more like pre-ACA health policies. For example, they may not cover preventive services, mental health services, maternity services, prescription drugs and so on. They may also limit coverage for pre-existing conditions and require medical underwriting to issue a policy. As a result, these policies should be far less expensive than the comprehensive coverage the Marketplace offers.

Applicants need to understand the coverage limitations. They also need to know that if their coverage ends mid-year, they will not have special enrollment rights in the Marketplace. Anyone not able to renew an STLDI may have a coverage gap until the next open enrollment in Marketplace coverage.

These policies will not be sold through the Marketplace and policyholders will not receive ACA premium subsidies. The policies will, however, provide a less expensive option for limited coverage to fill a short-term need. In addition, they might be the only affordable option for those that don't qualify for financial assistance in the Marketplace.

Some of these policies may be approved for sale this year. Since these policies are not considered MEC, policyholders may have to pay the individual mandate penalty. The individual mandate, however, is zeroed out in 2019. At that point, it will cease to matter that these policies don't qualify as MEC.

These policies do not directly affect employers or their health plans. However, employees often ask HR professionals to recommend health insurance policies for an aged-out child or family member with a short-term need for health insurance. These plans may meet their needs. It seems much will depend on whether states counter the federal rules. The issue is that these plans may draw healthy people away from individual Marketplace coverage pools. In that case, Marketplace coverage will end up covering sick people without covering enough healthy people (who may choose the less expensive STLDI policies). It will be interesting to see whether states limit these policies to a shorter time period than these federal rules allow, in order to combat potential adverse selection.

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