

EXPERT UPDATE



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Agencies Issue Proposed Regulations for Expat Health Coverage

By Shari Herrle, Director of Compliance

The IRS, DOL and HHS have issued proposed regulations under the Expatriate Health Coverage Clarification Act of 2014 (EHCCA) spelling out how the Affordable Care Act market reform, coverage and reporting requirements apply to expatriate health plans, expatriates and foreign nationals working in the United States.

Defining Key Terms

Expatriates:

1. Workers in the U.S.

Individuals whose skills and expertise caused an employer to temporarily transfer or assign them to the U.S., who are reasonably determined to require access to health insurance in multiple countries, and to whom the employer periodically offers “other multinational benefits” (such as tax equalization).

2. Workers outside the U.S.

Individuals working outside the U.S. at least 180 days in a consecutive 12 month period that overlaps with the plan year.

3. Charitable Workers

Members of groups formed for traveling or relocating internationally to do certain nonprofit work (and not formed primarily for the sale of health insurance), if determined by HHS to require access to health insurance in multiple countries.

Expatriate Health Plan:

A health plan where “substantially all” (i.e., at least 95%) of the primary enrollees are qualified expatriates and substantially all of the benefits provided are *not* “excepted benefits.”

Please note that the information contained in this document is designed to provide authoritative and accurate information, in regard to the subject matter covered. However, it is not provided as legal or tax advice and no representation is made as to the sufficiency for your specific company's needs. This document should be reviewed by your legal counsel or tax consultant before use.

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Excepted Benefits:

These are limited scope benefit plans that are exempt from certain requirements under HIPAA's portability provisions, health reform and other federal laws. Most dental, vision, EAP, AD&D and wrap-around supplemental coverage can be classified as excepted benefits.

Chart summarizing key elements of the proposed regulations

Requirements	Detail
Coverage	Must include inpatient and outpatient facility, physician and emergency services.
Benefit value	Plan sponsor must reasonably believe that the plan satisfies minimum value (MV) requirements.
Dependents eligible to age 26	If coverage for dependent children is offered, must cover to age 26, unless dependent is a dependent receiving coverage.
Reporting	1094-C and 1095-C reporting applies.
Benefits for pre-existing conditions	Must comply with HIPAA portability provisions in place prior to ACA.
Notification for Fixed Indemnity Coverage (supplemental coverage)	To be treated as "excepted benefits" and therefore exempt from certain ACA and HIPAA portability requirements, enrollees must be informed that coverage is supplemental to major medical coverage and the lack of minimum essential coverage (MEC) may result in individual mandate penalties.
Short-Term, Limited-Duration expiration	Policies must expire less than three months after original effective date.

For additional information regarding the proposed regulations and comment period, click here: [Expatriate Health Plans, Expatriate Health Plan Issuers, and Qualified Expatriates; Excepted Benefits; Lifetime and Annual Limits; and Short-Term, Limited-Duration Insurance](#)

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