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IRS Derails Use of MV Plans Without Hospitalization

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As you know, in order to avoid penalties under the Affordable Care Act (“ACA”), large employers must offer their full-time employees coverage that is affordable and meets minimum value (“MV”). Some vendors exclude certain core benefits, such as in-patient hospitalization and/or physician services from their plans (referred to as “Narrow MVPs”) and use the MV Calculator to determine that the Narrow MVPs meet MV under the ACA. The vendors claim the Narrow MVPs insulate employers from penalty exposure and preclude employees from accessing subsidies in the Marketplace. There has been much controversy as to whether the Narrow MVPs do, in fact, satisfy the MV requirement.

On November 4, 2014, the Departments of Health and Human Services, the Treasury, and Internal Revenue Service (collectively, “the Departments”) put an end to the uncertainty. The Departments announced their intent to issue regulations clarifying that a group health plan will not provide MV if it excludes substantial coverage for in-patient hospitalization services or physician services (or both). Briefly stated, the Notice provides that (1) the MV Calculator may not be used in these instances, (2) a narrow exception exists if an employer with a plan year that begins on or before March 1, 2015 has entered into a binding written commitment to adopt or has begun enrolling employees in the plan prior to November 4, and (3) employees offered coverage under these plans remain eligible for premium subsidies in the Marketplace. Based on this guidance, Narrow MVPs should not be implemented for 2015 as a mechanism to avoid penalties under the employer mandate. If this type of plan was/is a consideration, please contact us to develop a new strategy and discuss other similar options that may be available. For further information on the guidance, see [http://emersonreid.dmplocal.com/dsc/collateral/110714-P-ERC-Narrow_MVP_Guidance_\(GEN\).pdf](http://emersonreid.dmplocal.com/dsc/collateral/110714-P-ERC-Narrow_MVP_Guidance_(GEN).pdf).