

# ALERT

---

## IRS DELAYS EFFECTIVE DATE FOR NEW NONDISCRIMINATION REQUIREMENTS FOR FULLY INSURED PLANS THAT ARE NOT GRANDFATHERED

DECEMBER 28, 2010

When Congress enacted Health Care Reform earlier this year, it added a new set of “nondiscrimination” requirements. These new requirements apply to fully insured group health plans that are not “grandfathered.”

The new requirements were scheduled to take effect for plan years beginning on or after September 23, 2010. For employers with calendar year plans, this meant that the new nondiscrimination requirements would apply beginning January 1, 2011 (again assuming that the plan is fully insured and is not grandfathered).

Although the concept underlying the new nondiscrimination requirements is fairly simple – employers cannot discriminate in favor of their “highly compensated” employees in designing and maintaining their fully insured group health plans – there were and still are a number of unanswered questions as to how these requirements should be applied to specific situations.

In light of these unanswered questions, *the IRS issued a formal notice on December 22 announcing that fully insured group health plans will not be required to comply with the new nondiscrimination requirements until additional guidance has been issued.* For fully insured plans with a calendar year, this means that the earliest effective date for these requirements has now been pushed back to January 1, 2012, and, depending on when guidance is issued, possibly even later than that.

Although it comes a bit late in the game, this is still good news for employers with fully insured plans.

If you have questions regarding the impact of Health Care Reform on employers or the nondiscrimination requirements, please feel free to call Eric Namee, Steven Smith, Ruhe Wadud Rutter, or Brad Schlozman at 316-267-2000.

*Copyright © 2010 by Hinkle Elkouri Law Firm L.L.C. This Alert is provided solely for your information and is not intended to provide legal advice or counsel on any matter. If the law changes, Hinkle Elkouri Law Firm L.L.C. and its attorneys have no obligation to update the information contained herein.*

