

On March 23, 2010, President Obama signed federal health care reform into law, also known as the Patient Protection and Affordability Act.

Under the new law, Health Care Reform extends the Internal Revenue Service (IRS) non-discrimination requirements that previously only applied to self-insured plans to all fully insured, non-grandfathered plans (plans that renew to a different level of coverage) beginning as they renew on or after September 23, 2010. According to the IRS rules, plans cannot discriminate in favor of highly compensated employees.

Below is a summary of what this provision of health care reform means for employers.

It is the responsibility of the employer to monitor non-discrimination compliance throughout the year and the plan must satisfy two non-discrimination tests: an eligibility test in which the plan cannot discriminate in favor of highly compensated individuals as to their eligibility to participate and a benefits test in which the required employee contributions for employees cannot discriminate in favor of highly compensated individuals.

If the plan fails either test, the favorable tax treatment for highly compensated individuals is lost.

Note: This summary is provided for your information and is subject to change and/or further guidance from regulators. This summary is not intended as legal advice and you should consult with your own tax and benefit plan advisors regarding your particular situation.