

ACA Rule Changes for 2017

On February 29, 2016, the Department of Health and Human Services (HHS) released its [final Notice of Benefit and Payment Parameters for 2017](#).

For 2017, the rule increases the ACA's out-of-pocket maximum to \$7,150 for self-only coverage and \$14,300 for family coverage.

The rule sets individual coverage open enrollment periods for these benefit years:

- **2017:** November 1, 2016 to January 31, 2017
- **2018:** November 1, 2017 to January 31, 2018
- **2019 and beyond:** November 1 to December 15 of the prior year

The rule also creates a new Exchange model for state-based Exchanges using the federal platform and establishes six standard plan options in the individual federal Exchanges.

IRS Clarifies ACA Rules for Employer-Provided Coverage

At the end of 2015, the Internal Revenue Services (IRS) released Notice 2015-87, which clarified a number of ACA rules for employer-provided coverage, including employer shared responsibility penalties and ACA market reforms.

Significantly, the notice addressed how certain plan features, such as flex credits and opt-out incentives, affect whether an applicable large employer's coverage is affordable.

In the notice, the IRS clarified that the adjusted affordability threshold (9.56 percent for 2015 and 9.66 percent for 2016) applies for the affordability safe harbors for these employers.

The IRS also confirmed the adjusted employer shared responsibility penalty amounts (\$2,080 and \$3,120 for 2015 and \$2,160 and \$3,240 for 2016). The IRS

ACA Litigation May Affect Employers

A New York district court will hear the first case on whether employers may reduce their employees' work hours in order to avoid providing health benefits required under the Affordable Care Act (ACA).

The case is *Marin v. Dave & Busters*—a class action lawsuit claiming that the restaurant chain, Dave & Busters, violated federal law by intentionally interfering with its employees' eligibility for health benefits.

The ACA requires applicable large employers (ALEs) to offer affordable, minimum value health insurance coverage to their full-time employees, or to pay a penalty. For this purpose, a "full-time employee" is defined as an employee that works, on average, at least 30 hours of service per week. In addition, Section 510 of the Employee Retirement Income Security Act (ERISA) prohibits employers and plan sponsors from interfering with an employee's rights to health benefits under the plan.

According to the group of about 10,000 employees who filed suit, their hours were significantly reduced for the purpose of keeping them below the ACA's "full-time employee" threshold.

On February 9, 2016, the court rejected Dave & Busters' motion to dismiss the case. This is the first case of its kind, and will set a precedent for other employers who are considering or have implemented similar strategies regarding their employees' work hours as a result of the ACA.



anticipates that adjustments for future years will be posted on the IRS' website.

The notice also supplemented previous guidance on health reimbursement arrangements (HRAs) and employer payment plans. For more information, the notice can be viewed in its entirety [here](#).