



BENEFIT NEWS BRIEFS

The Age 26 Rules, ALEs and Multiemployer Plans

Introduction

We were recently asked about the relationship between the “age 26” rules under the *Affordable Care Act (ACA)* governing group health plans, and the “age 26” rules that apply to the coverage of dependent children that must be offered by applicable large employer’s (ALEs) (>50 full-time employees) and multiemployer plans. The term “age 26” rules refer to coverage for dependent children that must be extended to age 26. The age 26 rules for group health plans are not the same as the age 26 rules applicable to coverage that must be offered by ALEs. Both rules are discussed below.

Age 26 Rules for Group Health Plans

The *ACA* amended *ERISA* so that IF a group health plan offers coverage for dependent children the coverage must last *until the day before the dependent child turns age 26*. We say “IF” because under *ERISA* an employer does not have to offer coverage to a spouse or dependent child. That rule remained unchanged until the Employer Mandate or the Employer Shared Responsibility Provisions of the *ACA* became effective.

Age 26 Rules for Coverage Offered by ALEs

ALEs must offer coverage that, among other things, covers the participant and any dependent children *until the end of the month in which the dependent child turns age 26*. The final regulations state that “dependents” include biological children and adopted children. Spouses, step-children and foster children are not included in the definition of “dependent” for these purposes and do not need to be offered coverage for an ALE to meet its responsibilities under the Employer Mandate.

Small employers (non-ALEs) do not have to offer their employees any coverage under the *ACA*.

Age 26 Rules and Multiemployer Plans

If a multiemployer plan had no ALEs who were contributing employers, it could have age 26 coverage for dependent children that ended the day before the dependent child turned age 26. However, if a multiemployer plan has an ALE as a contributing employer, then for the coverage offered by the multiemployer plan to meet the standards of coverage an ALE must offer, the multiemployer plan's dependent child coverage rules should cover any dependent child through the end of the month the dependent child turns age 26 or the ALE would be subject to the applicable excise tax for failing to offer conforming coverage.

Conclusion

Consequently, multiemployer health plan Trustees should check with their fund counsel and professionals to determine if the plan should be amended to cover dependents *through the end of the month* the dependent turns age 26 if it does not already do so. Any [transition relief](#) for ALEs offering dependent coverage that did not last through the end of the month the dependent turns age 26 expires beginning January 1, 2016, so any such needed amendments should be executed before that date.

It is more than likely that ALEs contributing to multiemployer health plans would desire the certainty of knowing the multiemployer plan offered dependent child coverage *through the end of the month the dependent child turns 26*.

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