

# Short-Term, Limited-Duration Insurance

## Cross References

- REG-133491-17, February 21, 2018

The Secretaries of the Treasury, Labor, and Health and Human Services have issued new proposed regulations that amend the definition of short-term, limited-duration insurance for purposes of its exclusion from the definition of individual health insurance coverage.

Under President Trump's Executive Order dated October 12, 2017, within 60 days, the Secretaries were to consider proposing regulations or revising guidance to expand the availability of short-term, limited-duration insurance.

Under the Affordable Care Act (ACA), non-exempt individuals must maintain minimum essential health insurance coverage or pay a penalty tax (the individual shared responsibility payment). Short-term, limited-duration insurance is a type of health insurance coverage that was designed to fill temporary gaps in coverage that may occur when an individual is transitioning from one plan or coverage to another plan or coverage.

Prior guidance defined short-term, limited-duration insurance as health insurance coverage provided pursuant to a contract with an issuer that has an expiration date specified in the contract that is less than 12 months after the original effective date of the contract. After ACA, guidance was proposed that shortened the length to less than three months. This guidance also included a requirement that the following notice be prominently displayed in the contract and in any application materials provided in connection with enrollment in short-term, limited-duration insurance:

*"This is not qualifying health coverage (minimum essential coverage) that satisfies the health coverage requirement of the Affordable Care Act. If you don't have minimum essential coverage, you may owe an additional payment with your taxes."*

The intent of this guidance was to limit the number of consumers relying on short-term, limited-duration insurance as their primary form of coverage and improve the individual market single risk pools. However, critics expressed concerns about restricting the use of short-term, limited-duration insurance because it provides an additional, often much more affordable coverage option than an insurance policy that complies with all of the requirements of the ACA. Individuals who do not qualify for premium tax credits and need temporary coverage, or who cannot afford COBRA continuation coverage, or who missed an opportunity to sign up during the open enrollment periods, might need to rely on short-term, limited-duration insurance coverage for three months or longer.

For example, a person with just a less-than 3-month policy who develops a health condition might have no coverage options for the condition after their coverage expires until the beginning of the plan year that corresponds to the next individual market open enrollment period.

Individuals who may be financially stressed may be faced with a choice between short-term, limited-duration insurance coverage and going without any coverage at all.

In light of the Presidential Executive Order, the new guidance proposes to amend the definition of short-term, limited-duration insurance so that it may offer a maximum coverage period of less than 12 months after the original effective date of the contract. This new guidance states that the expiration date specified in the contract takes into account any extensions that may be elected by the policyholder without the issuer's consent.

The new guidance also revises the required notice that must appear in the contract and any application materials for short-term, limited-duration insurance to say:

*"This coverage is not required to comply with federal requirements for health insurance, principally those contained in the ACA. Be sure to check your policy carefully to make sure you understand what the policy does and doesn't cover. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage. Also, this coverage is not minimum essential coverage. If you don't have minimum essential coverage for any month in 2018, you may have to make a payment when you file your tax return unless you qualify for an exemption from the requirement that you have health coverage for that month."*