

## **ACA and Graduate Student Subsidies for Student Health Insurance Plan (SHIP) Coverage**

### **Issue:**

- For a number of years, many colleges and universities, particularly the major research universities, have provided graduate students with SHIP coverage, at little or no cost, as part of their graduate package. Schools provide this subsidized coverage to graduate students because of their status as students enrolled in an academic program. We want to continue to provide subsidized SHIP coverage because it helps enhance access to graduate education by reducing its cost, while also advancing a primary goal of the ACA to ensure the widespread availability of affordable, quality health insurance coverage.
- On February 5, 2016, the Departments of Treasury, HHS, and DOL issued guidance that this practice is not permitted under the ACA's employer mandate but provided "temporary transition relief" so that schools could continue providing this subsidized coverage without penalty through the 2016-17 academic year. Apparently, the guidance is based on an incorrect interpretation of employment law that graduate students are employees. As a result, the guidance concludes that the subsidized student health insurance coverage is a kind of impermissible "premium reduction arrangement" as part of an "employer payment plan." After the expiration of the temporary transition relief, schools could face significant fines of \$36,500 a year per impacted individual (\$100 per day) if they continue providing this subsidized coverage to their graduate students.
- The guidance is based on IRS Notice 2013-54 which was intended to prevent employers from eluding the ACA's employer mandate by providing funds to employees, through such tax preferred mechanisms as Health Reimbursement Arrangements, to cover the cost of individual health insurance coverage purchased on the individual market. We have been providing these subsidies for many years, in most cases prior to the enactment of the ACA, so this practice is not an effort to elude the ACA's employer shared responsibility requirements. It makes little sense to penalize universities for offering students access to lower cost, high quality health coverage.
- Despite the temporary transition relief, this guidance is causing great concern and uncertainty at a number of institutions, causing some schools to consider ending graduate student SHIP subsidies. There is an urgent need to resolve this issue as soon as possible. Colleges and Universities will be negotiating the terms and cost of their student health insurance coverage for academic year 2017-18 during the fall of 2016 and need to know whether they'll be able to continue providing subsidized coverage to their graduate students.

**Impact:**

- Unfortunately, this guidance could detrimentally affect thousands of graduate students at major research universities across the country, costing students and schools millions of dollars.
- Many research universities currently provide thousands of graduate students (ranging from 1,000-4,000 per school) with comprehensive ACA-compliant subsidized SHIP coverage. Some schools even provide subsidies to cover partners and/or dependents. Schools already spend millions of dollars on these subsidies.
- If this longstanding practice is prohibited, schools have few options. They could shift graduate students to their employee insurance, which is typically more than double the cost of SHIP premiums and provides less robust coverage not as well-tailored to meet student needs, with higher out-of-pocket expenses for graduate students (and their dependents). If schools maintained comparable subsidies for graduate students, costs to schools would run into the millions of dollars. Alternatively, they could simply stop subsidizing the health insurance for graduate students, needlessly raising the cost of graduate education.

**Ask:**

- We request that federal regulators issue final guidance clarifying that colleges and universities may continue to provide graduate students (and their partners/dependents) with subsidized SHIP coverage without penalty in compliance with the requirements of the ACA.