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On August 15, 2014, California Governor Jerry Brown signed SB 1034 into law. SB 1034 is intended to match California health insurance waiting period requirements with those imposed by the Patient Protection and Affordable Care Act (ACA). The ACA prevents health insurance plans from imposing waiting periods for coverage that exceed 90 days. This applies to grandfathered and non-grandfathered plans. California had previously imposed a 60-day waiting period limit for health insurance coverage issued in California or covering employees working in California.

Legislative analysis by the California Senate and Assembly indicated that the 60-day waiting period limit created significant confusion and greater administrative burdens for employers because of the inconsistency between California and federal law. Additionally, SB 1034 should help multi-state employers by allowing those employers to administer one uniform waiting period both inside and outside of California.

SB 1034 was passed as a non-urgency measure. This means that the provisions of SB 1034 are expected to become effective on January 1, 2015. Employer sponsored health insurance plans covering California employees that had implemented 60-day waiting periods may amend their plans to conform with waiting period requirements imposed by the ACA for plan years beginning on or after January 1, 2015.

Possible Impact on Transition Relief

Final regulations on the employer mandate, issued on February 10, 2014, provide transitional relief for certain medium sized employers. This relief applies to employers with 50-99 full-time employees (including full-time equivalent employees). For those employers, the employer penalty provisions are delayed until the first plan year that begins in 2016 if the employer meets certain criteria, including a size requirement (number of employees) and the requirement to maintain previously offered health insurance coverage. Thus, an employer will not qualify for this relief if the employer eliminates or materially reduces health coverage that was offered as of February 9, 2014. It is important to note that altering the waiting period from 60 days to 90 days could be considered a material reduction in health coverage.

At this time and until further guidance is available, it is unclear whether a medium-sized employer previously subject to the 60-day waiting period mandate under California law will be eligible for the medium-sized employer transition relief if the employer opts to change its waiting period from the more restrictive 60 days to the ACA-permitted 90 days as of January 1, 2015 (or the first plan year that begins after that date). As such, employers intending to rely on the medium-sized employer relief who would also like to extend their existing waiting periods pursuant to the change in California law should consult with counsel.