

Administration Proposals for H. 107 Amendments

Sec. 28. Definition of Qualified Employer

2014-2015: In federal regulations that were published after H. 107 passed the House, states were given flexibility for determining whether seasonal employees may be excluded from the definition of a qualified employer. The Administration believes they should be excluded in order to provide a smooth transition.

2016: For 2016, the federal regulation excludes seasonal employees in certain situations. The rule changes the reference from 26 U.S.C. § 4980(c)(2)(E) to 26 U.S.C. § 4980(c)(2).¹ Accordingly, we are changing the reference here to conform to federal rules.

Sec. 30. Definition of Small Employer

2014-2015: In federal regulations that were published after H. 107 passed the House, states were given flexibility for determining whether seasonal employees may be excluded from the definition of a qualified employer. The Administration believes they should be excluded in order to provide a smooth transition.

2016: For 2016, the federal regulation excludes seasonal employees in certain situations. The rule changes the reference from 26 U.S.C. § 4980(c)(2)(E) to 26 U.S.C. § 4980(c)(2).² Accordingly, we are changing the reference here to conform to federal rules.

Sec. 35. Special Fund for GMCB

H. 107 transfers responsibility for VHCURES from DFR to the GMCB. Section 35 was created to provide a mechanism for the GMCB to fund its work with VHCURES as well as other responsibilities. Since then, the Department of Finance has determined that this special fund would be redundant. The DFR currently provides billback funds to GMCB and the Department of Health via contract. Since DFR will continue to perform the billback function as part of its jurisdiction over insurance, having GMCB perform the same function would create two versions of the same system. As a result, this provision has been deleted.

¹ Patient Protection and Affordable Care Act, Final Rule, 78 Fed. Reg. 15503 & 15533 (March 11, 2013) to be codified at 45 C.F.R. § 155.20, <https://www.federalregister.gov/articles/2013/03/11/2013-04902/patient-protection-and-affordable-care-act-hhs-notice-of-benefit-and-payment-parameters-for-2014>.

² Patient Protection and Affordable Care Act, Final Rule, 78 Fed. Reg. 15503 & 15533 (March 11, 2013) to be codified at 45 C.F.R. § 155.20, <https://www.federalregister.gov/articles/2013/03/11/2013-04902/patient-protection-and-affordable-care-act-hhs-notice-of-benefit-and-payment-parameters-for-2014>.

Sec. 36a. GMCB Audit

The Administration proposes to delete this provision because the GMCB is already subject to the State's auditing process. Another audit may increase administrative costs with little to no increase in effectiveness or efficiency.

Sec. 39. Temporary suspension of community hospital reports

The DFR requests that the deadline for community hospital reports due on June 1, 2013 be extended to October 1, 2013.

Sec. 51. Emergency Rulemaking

- Overall purpose: To be sure the state rule incorporates federal and state requirements in one place for consumer access.
- Emergency rulemaking through 4/1/14: allows time to make regulatory adjustments if needed to meet MAGI hold harmless standard, which will be implemented until April.
- AHS will begin the formal rulemaking process by the end of this month. The proposed rule is as comprehensive as possible (currently over 300 pages) and we anticipate filing the final proposed rule with LCAR in July. If, however, we discover that additional provisions are necessary to effectively launch the Health Benefit Exchange, or to correct or coordinate provisions, then emergency rulemaking authority will allow us to do that in time for smooth implementation. AHS would immediately begin the formal rulemaking process for the new rule provisions.
- AHS could offer some limited and very fast public input process, such as issuing press release and posting on website for comment for 5 days before filing an emergency rule.

Sec. 53. Effective Dates for converting VPharm and Health Vermonters to MAGI

Sec. 31 & 32—converting VPharm and Healthy Vermonters to MAGI—this date may need to change. The Administration is waiting on the operations team at DVHA.