

BenefitsBCLP

THE DOL'S ACA COMPLIANCE CHECKLIST

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The Department of Labor's Employee Benefits Security Administration recently released a self-compliance tool for group health plans, in the form of a checklist, on its website. The checklist is a good summary of the ACA requirements, as far as it goes, and has citations to much of the relevant regulations and other guidance.

The checklist can be a useful roadmap or overview to help make sure you're on the right track, but there are several nuances that the checklist (by necessity) does not address. For example, in discussing the distribution of the Summary of Benefits and Coverage, the checklist refers to the DoL's existing electronic delivery safe harbor, but does not describe it. Also, in discussing the preventive care rules, the self-compliance tool does not address the many nuances raised in the recent FAQs. Of course, if the checklist covered all the nuances, it could easily balloon to 500+ pages.

The other obvious limitation of the checklist is that it will, in the near term, always be a little bit behind the release of guidance. As the Departments issue new guidance, it will be difficult for EBSA to keep the checklist up to date, particularly in the short term as new guidance is being released at a relatively quick pace. Furthermore, it does not address items outside the DoL's purview, such as the play or pay/shared responsibility rules.

None of this is intended to be critical of DoL/EBSA. The self-compliance tool is useful and we appreciate the compliance assistance-oriented approach the Department is taking by releasing it. Employers should just be aware that its use has limitations. Any thoughts about the checklist?

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