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# DOL FAQs Part II - Rescissions and More

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On this Columbus Day the government is closed (and some of the downtown subway system, which is another topic entirely), but the Department of Labor is still releasing Affordable Care Act guidance. This guidance in the form of FAQs was placed on the web this morning and is joining the other set of FAQs previously released on September 20th. The new set of Affordable Care Act FAQs - aptly named Part II by the DOL - includes questions on grandfathering, rescissions, and preventive care.

However, the most interesting FAQ covers rescissions. The DOL sets forth two examples and states that the examples are not considered rescissions. The first example provides that if a plan covers only active employees and an employee pays no premiums for coverage after termination of employment, the DOL does not consider the retroactive elimination of coverage back to the date of termination of employment, due to a delay in administrative record-keeping, to be a rescission.

The second example provides that if a plan does not cover ex-spouses and the plan is not notified of a divorce and the full COBRA premium is not paid by the employee or ex-spouse for coverage, the DOL does not consider a plan's termination of coverage retroactive to the divorce to be a rescission of coverage.

In effect, this means that under the above two examples, coverage may be terminated retroactively without having to prove fraud or intentional misrepresentation. This is particularly helpful in divorce situations, as it is hard to prove subjective intent with respect to divorce notifications.

Part II of the Affordable Care Act FAQs can be found here:

http://www.dol.gov/ebsa/faqs/faq-aca2.html