



## Health Care Reform **Bulletin**

# ACA's Automatic Enrollment Requirement Repealed

Provided by Sullivan Benefits

### Quick Facts

- On Nov. 2, 2015, a law was enacted to repeal the ACA's automatic enrollment requirement.
- Employers will not be required to automatically enroll employees in coverage.
- In certain cases, employers can choose to implement an automatic enrollment process, if employees are provided adequate notice and an opportunity to opt out.

No employers will be required to automatically enroll new employees or re-enroll current employees in one of the employer's health plans.

The Affordable Care Act (ACA) included an automatic enrollment requirement for certain large employers. This requirement was not yet effective. It was intended to take effect once final regulations were issued and a final effective date was specified.

On Nov. 2, 2015, President Obama signed into law the [Bipartisan Budget Act of 2015](#), which included a provision **repealing the ACA's automatic enrollment requirement**.

Therefore, this requirement will not take effect at any point, and employers will not be required to automatically enroll employees in their group health plan coverage.

### Overview of Automatic Enrollment

Under the ACA, certain large employers that offer health coverage would have been required to automatically enroll new employees (and re-enroll current employees) in one of the employer's health plans, subject to any permissible waiting period.

The ACA further required adequate notice to employees and the opportunity for an employee to opt out of any coverage in which the employee was automatically enrolled.

This automatic enrollment requirement would have applied to employers subject to the Fair Labor Standards Act (FLSA) with more than 200 full-time employees.

On Dec. 22, 2010, the Departments of Labor (DOL), Health and Human Services (HHS) and the Treasury (Departments) issued [FAQs](#) on the automatic enrollment requirement. Also, on Feb. 9, 2012, the DOL issued [Technical Release 2012-01](#) to answer questions from employers and other stakeholders on this provision.

However, the Departments did not issue regulations or other final guidance regarding the ACA's automatic enrollment requirement. As a result, this requirement never took effect for any employers. The repeal ensures that no employers will be required to comply with the ACA's automatic enrollment requirement at any point.

### Impact of the Repeal on Employers

If the ACA's automatic enrollment requirement had been implemented, employers that offer group health plan coverage would have been required to automatically enroll new employees (and re-enroll current employees) in the coverage, even if those employees did not elect coverage.



A number of experts expressed questions and concerns about this automatic enrollment requirement, primarily on how employers would effectively administer the provision. According to some, this could have caused a number of problems, such as having employees enrolled in the employer's coverage who are also covered by a spouse's plan.

Although the ACA's automatic enrollment requirement has now been repealed, the Internal Revenue Service (IRS) has previously issued guidance in [Internal Revenue Bulletin 2002-20](#) and in a [proposed rule from 2007](#) that employers can choose to use an automatic enrollment process under certain circumstances. This would allow an employer to enroll an eligible employee in the employer's plan, unless the employee affirmatively elects otherwise. This process often involves a deduction from the employee's wages that is contributed to the plan on the employee's behalf.

In general, any employer using an automatic enrollment arrangement would need to provide adequate notice to employees and an opportunity for employees to opt out of the coverage. Employers should also be aware of any applicable wage withholding laws in their state, which may require an affirmative election from employees before any deductions can be made. Because of these issues, employers may want to consult with legal counsel before implementing any automatic enrollment arrangement.

