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Notice of clarification: Final rule on certain health care-related measures

The U.S. Treasury Department and IRS this afternoon released for publication in the Federal Register a clarification of a final rule* (T.D. 9744) that was issued in November 2015 with respect to health insurance and health care-related guidance under the Affordable Care Act.

*The final rule was jointly issued by Treasury and the IRS and by the Department of Labor and the Department of Health and Human Services.

The final regulations were published in the Federal Register in November 2015. Read text of the final rule in: [TaxNewsFlash](#)

Today's [clarification](#) [PDF 342 KB] explains that the November 2015 final rule was issued regarding, in part, the coverage of emergency services by non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage, including the requirement that non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage limit cost-sharing for out-of-network emergency services and, as part of that rule, pay at least a minimum amount for out-of-network emergency services.

A legal complaint was subsequently filed challenging the final rule in federal district court. In 2017, the court remanded the matter to the departments for follow-up action.

Today's "notice of clarification" was issued to "provide a more thorough explanation of the Departments' decision not to adopt recommendations made" in response to the November 2015 final rule. The clarification concludes:

The Departments believe that the November 2015 final rule provides a reasonable methodology to determine appropriate payments by group health plans and health insurance issuers for out-of-network emergency services....

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