

Office of Civil Rights to Conduct HIPAA Compliance Audits

Some employers will soon feel the impact of one of the major provisions of the 2009 economic stimulus package. Specifically, health care providers, health plans and health care clearinghouses will be the targets of new government audits focusing on Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy and security compliance.

As part of the American Recovery and Reinvestment Act of 2009, the Health Information Technology for Economic and Clinical Health Act (HITECH Act) amended certain provisions of HIPAA. The HITECH Act required the U.S. Department of Health and Human Services (DHHS) to develop procedures for periodically auditing covered entities and business associates to promote compliance with HIPAA's privacy, security and breach notification standards. **MORE**

New Rules Issued on Medical Loss Ratio Requirements

On December 7, 2011, the U.S. Department of Health and Human Services ("HHS") and the Centers for Medicare & Medicaid Services ("CMS") issued a final rule^[1] (the "Final Rule") revising medical loss ratio ("MLR") requirements under the Patient Protection and Affordable Care Act ("PPACA"), as well as an interim final rule^[2] (the "Interim Final Rule") specifically addressing the rebate requirements for non-federal governmental plans (the Final Rule and the Interim Final Rule are collectively the "Rules").

The MLR requirements, which took effect on January 1, 2012, apply to insured group health plans and individual health plans, including health plans that are grandfathered under PPACA. They do not apply to self-insured plans. Insurers are required to provide rebates to policyholders when their spending for covered plan benefits and quality improving activities in relation to the premiums received falls below the applicable MLR standard for the MLR reporting year. The rebates are determined based on the premium costs of insured coverage, as distinguished from pharmaceutical or manufacturer rebates common to the health care industry. The purpose of the Rules is to reduce the cost of health care coverage by limiting the amount of premium available to insurers to spend on administrative costs and purposes other than the provision of health care services. **MORE**

Auditing Health Plan Dependent Eligibility? Be Careful

Employers that allow dependents to be covered under their health plans need to be aware of health care reform rules that may limit their ability to retroactively remove ineligible dependents from coverage.

To ensure that only dependents who meet a health plan's eligibility requirements are enrolled, many employers audit dependent eligibility and require documentation to verify eligibility. In general, if an employee cannot provide verification of a dependent's eligibility, the dependent is removed from coverage either retroactively to the date of enrollment or prospectively as of a date specified by the employer. The health care reform law placed limits on retroactive cancellation of coverage, and employers will need to understand the new rules in order to avoid triggering possible penalties. Group health plans (including both grandfathered and non-grandfathered plans) and insurers that issue group or individual health insurance coverage are all subject to the rules on retroactive cancellations. [**MORE**](#)

Walgreen-Express Scripts War Could Cut Drug Costs

An epic pricing battle between Walgreen, the nation's largest drugstore chain, and Express Scripts, arguably the second-biggest pharmacy benefits manager (PBM), has narrowed the size of pharmacy networks for thousands of corporate health-plan sponsors. And it could set the stage for more such winnowing, with lower-cost drug benefits being one possible result. [**MORE**](#)

HHS Fingers Another Life Insurer for Rate Hikes Under ACA Authority

Health insurance rate hikes in five states have been deemed “unreasonable” by the U.S. Department of Health and Human Services, under the Patient Protection and Affordable Care Act of 2010 (PPACA), HHS Secretary Kathleen Sebelius announced today, this time targeting Trustmark Life Insurance Company’s premium increases.

HHS alleged that Trustmark Life Insurance Company, a division of Trustmark Cos., in Lakeforest, Ill., has proposed “unreasonable” health insurance premium increases in Alabama, Arizona, Pennsylvania, Virginia, and Wyoming. The increases would affect nearly 10,000 residents across these five states. [**MORE**](#)

2011 OSHA Recordkeeping Annual Summary Must Be Posted By February 1, 2012

All employers maintaining the Occupational Safety and Health Administration's 300 Logs for workplace injuries and illnesses pursuant to OSHA's recordkeeping standard must post their 2011 annual summary by February 1, 2012. Employers must utilize the annual summary form (form 300A) when complying with the posting requirements. The form is available for downloading from the OSHA website.

Here are some details about the form that are frequently misunderstood or overlooked and which can cause trouble. [**MORE**](#)

Fiduciary Proposal Puts CFOs' Liability in Question

A U.S. Department of Labor proposal that critics worried would increase costs for participants of corporate retirement plans might have actually reduced the personal liability of some CFOs. A reproposed version of the rule, expected to be unveiled this year, will change the definition of "fiduciary" for retirement plans and other employee plans governed by the Employee Retirement Income Security Act.

The change is critical because people or entities serving as ERISA fiduciaries, including CFOs, are subject to the "highest duty known to the law." They are required to act prudently and in the best interests of plan participants or else risk being subject to personal liability. [**MORE**](#)

The ERISA Litigation Newsletter

This month, we include a look back at the most significant ERISA litigation decisions of the past year and what they portend for 2012. The article addresses the implications of two major Supreme Court decisions, Cigna Corp. v. Amara and Walmart Stores, Inc. v. Dukes, and developments in 401(k) plan excessive fee and employer stock drop cases. [**MORE**](#)

California Regulators Still have Little Power Over Insurance Rate Hikes

California regulators last year won expanded authority to scrutinize health insurance rate hikes, but their continued lack of real power has consumers gearing up for a new battle with the insurance industry over rate regulation.

The new law permits regulators to conclude a rate hike is excessive, but they can only try to persuade or shame insurers into backing off. [**MORE**](#)