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HHS Releases Guidance on Electronic Process for HIPAA Opt-out for Self-funded, Non-federal Government Plans

Earlier this year the Department of Health & Human Services issued final regulations on the HIPAA opt-out process for self-funded, non-federal government group health plans. The final rules require that the opt-out elections be submitted electronically. Guidance has now been provided on the new electronic election process.

Background

Plan sponsors of self-funded, non-federal government plans can elect to opt out of certain HIPAA-related coverage requirements:

- Mental Health Parity and Addiction Equity Act
- Newborns' and Mothers' Health Protection Act
- Women's Health and Cancer Rights Act
- Michelle's Law

The Department of Health & Human Services (HHS) issued final regulations in May 2014 that provide the general terms and conditions necessary for a plan sponsor to make an opt-out election. (See our [June 16, 2014 For Your Information](#).) The final regulations require that the opt-out election be made electronically starting in 2015. The Centers for Medicare & Medicaid Services (CMS) will continue to accept mail or fax elections until December 31, 2014.

Electronic Filing

On July 21, CMS issued [guidance](#) on the electronic filing process. Elections must be submitted through the Non-Federal Governmental Plans Module in the Health Insurance Oversight System (HIOS). To become an HIOS user, a plan sponsor must first register in the [Enterprise Identity Management System](#). The guidance includes more detailed instructions on the process, including a [user manual](#).

An opt-out election must meet the following requirements:

- Be made in electronic format
- Be made in conformance with the plan sponsor rules
- Specify the beginning and end dates of the election period
- Specify the name of the plan, name and address of the plan administrator, and name and telephone number of contact person
- State that the plan, or a portion of the plan, does not include health insurance coverage
- Specify each requirement from which the plan sponsor elects to exempt the plan
- Certify that the person signing the election document is legally authorized to do so
- For initial elections, include a copy of the plan notice to enrollees explaining the election and its consequences
- For renewal elections, certify that the notice has been, or will be, provided to enrollees

A completed election consists of the:

- Election document
- Signed certification
- Copy of the plan enrollee notice, unless it is a renewal election

In Closing

Hard copy elections will be accepted until December 31, 2014. Plan sponsors who intend to utilize the HIPAA opt-out election after that date should become familiar with this new process and complete the registration process for election filing.

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