

## Approaching HPID Deadline Poses Conundrum for Self-funded Plans

Under final regulations issued by HHS in September 2012, a “controlling health plan” (CHP) is required to obtain a health plan identifier to be used on all standard transactions conducted by the plan and its business associates. Large health plans must obtain their HPIDs by November 5, 2014 (small plans have an additional year to comply). All health plans must use the HPID in standard transactions by November 7, 2016. While the regulations are not new, the approach of the first deadline and the lack of clarity regarding the application of the requirements to self-funded employer-sponsored health plans are causing plans sponsors of self-funded plans to wonder just how they can comply.

### Background

HIPAA requires covered entities conducting covered transactions electronically do so using standardized formats and codes. The covered transactions for which standards and rules have been adopted generally apply to transactions involving eligibility and enrollment in a health plan and payment of health care claims. The original standards for electronic transmissions were published in August 2000 and modified and expanded several times since, most recently to reflect the requirements of the Affordable Care Act (ACA).

In September 2012, HHS issued the [final rule](#) to implement the standard for a unique health plan identifier (HPID) (an [amendment](#) correcting dates was issued in October 2012). The regulation defines a “controlling health plan” (CHP) as a health plan that either controls its own business activities and policies, or is controlled by a non-health plan and, if it has a subhealth plan, controls that plan’s activities. A subhealth plan (SHP), in turn, is defined as a health plan whose business activities, actions, or policies are directed by a controlling health plan. The broad definition of “controlling health plan” appears to encompass not only insurers and their products but self-funded health plans sponsored by employers as well. All CHPs are required to obtain an HPID, which must be used on all standard transactions conducted by the plan and its business associates (e.g., the claims administrator). Large health plans (those with receipts over \$5,000,000) must obtain their HPIDs by November 5, 2014. For self-funded plans, “receipts” equal the total amount paid for health care claims during the prior full plan year.

In January 2014, HHS issued proposed [regulations](#) requiring a CHP to demonstrate that it complies with certain HIPAA operating standards and indicated that it may use the HPID to track compliance with that requirement.

## Issues for Self-funded Plans

Plan sponsors are directed to apply for an HPID through the Health Plan and Other Entities Enumeration System (HPOES) that is accessed via the [CMS Enterprise Portal](#). HPOES resides within the CMS Health Insurance Oversight System (HIOS). Although it is intended to simplify the process, HIOS is geared towards insurance issuers and, as such, has limitations when used by sponsors of self-funded plans. The instructions do not discuss how a plan sponsor may obtain the HIOS user number that is needed to access the HPOES system, and the process for using the website is not intuitive. Once access is granted, plan sponsors face additional issues.

**Comment.** Under HIPAA, the insurer is the covered entity and will be completing the HPID application process. Thus, plan sponsors of fully-insured plans need not attempt to access HPOES.

## Company Information

The first step in the HPID application process is to provide company information. Four data items must be entered: company name, federal EIN, address and NAIC number or payer identification number (or both). All fields are required. Because the company name may only be entered via a drop-down menu, it will not appear if the entity is not already registered with HIOS as is likely the case for companies that are not in the insurance industry. This means that the user must complete the company registration process before he or she can continue. The NAIC Number is a number issued by the National Association of Insurance Commissioners and does not apply to the sponsor of a self-funded plan. The system has been updated to permit an organization to enter N/A in the payer identification field in order to proceed.

## Identifying CHPs and SHPs

Some employers maintain a single self-funded plan for several types of coverage such as medical, dental, and vision with separate claims administrators. Others maintain multiple plans (e.g., separate plans for actives and retirees or different classes of active employees). It is currently unclear what “plan” would be considered a CHP (which must have an HPID) and whether any arrangement would qualify as a SHP (for which an HPID is optional). This status is important because HPOES currently limits an entity (or EIN) to one HPID.

**Comment.** HHS has been made aware of the issue and indicates that it is being addressed. However, they recommend that plan sponsors apply for an HPID before the deadline.

## In Closing

The application process in its current state is not readily usable by sponsors of self-funded health plans. Additional guidance or an alternative method to apply is needed in order for plan sponsors to comply by the 2014 due date. The necessity is amplified by statements in the preamble to recently issued proposed regulations that indicate that the regulators may use the HPID to track compliance with other HIPAA requirements. Sponsors of self-funded plans may wish to apply now for an initial HPID. Alternatively, until additional guidance is provided sponsors of self-funded plans may wish to wait until closer to the deadline before beginning the application process. Buck is working actively with industry groups to obtain additional clarification and guidance from HHS.

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