BUCK

US

Celebrating 40 years of FYI®

FYI® Roundup
For Your Information®

Recent Health and Welfare Developments 2019 – Spring Edition

Volume 42

Issue 44

April 30, 2019

Authors
Kin Chan
Sharon Cohen, JD

Our latest *FYI Roundup* highlights developments affecting health and welfare benefits. In this edition, we review the HPID regulations, wellness programs, creditable coverage notices, the San Francisco Health Care Security Ordinance, and compliance issues in telehealth.

Farewell, HPID regulations

The Department of Health & Human Services (HHS) proposed rescinding regulations that would require health plans to obtain HPIDs and use them in certain HIPAA transactions. In September 2012, HHS issued final regulations on the Health Plan Identifier (HPID) — a standard, unique 10-digit identifier required by HIPAA. "Controlling health plans" would have been required to obtain an HPID and use it in all standard transactions conducted by the plan and its business associates. This proposed regulation would nullify this requirement. Once this proposal is finalized, group health plans can consider the HPID requirement a compliance concern of the past. (See our January 3, 2019 *For Your Information.*)

Wellness program compliance — where are we now?

In December 2018, the EEOC removed portions of the final ADA and GINA regulations that permitted a 30 percent wellness incentive, following a January 2018 federal court's conclusion that those rules were arbitrary and capricious. Without clear standards, employers should assess current wellness program designs and determine their risk tolerance. They should also be mindful that the DOL has been actively enforcing the HIPAA wellness regulations, with a particular focus on plans that impose a premium surcharge on tobacco users. (See our January 24, 2019 *For Your Information.*)

Submit creditable coverage disclosures to CMS by March 1

Each year, group health plan sponsors that provide prescription drug coverage to individuals eligible for Medicare Part D must disclose to Centers for Medicare & Medicaid Services (CMS) whether that coverage is "creditable" or "non-creditable." The disclosure obligation applies to all plan sponsors that

provide prescription drug coverage, even those that offer prescription drug coverage only to active employees and not to retirees. Calendar year plans must submit this year's disclosure to CMS by March 1, 2019. (See our February 4, 2019 *For Your Information.*)

HHS proposes 2020 out-of-pocket maximums

HHS has proposed 2020 out-of-pocket maximums for non-grandfathered plans of $8,200 for self-only coverage and $16,400 for other than self-only coverage. These proposed amounts reflect a change in how HHS determines the amount of the adjustment — a change that, if finalized, would also affect the employer shared responsibility assessment amounts for 2020. In addition, HHS has proposed rules that would change how amounts paid for brand-name drugs are applied towards the out-of-pocket maximums. (See our February 13, 2019 *For Your Information.*)

Deadline nears for new San Francisco minimum healthcare expenditure requirements

New minimum healthcare expenditure requirements that were effective in 2018 require actions by employers with self-insured health plans before the February 28 deadline. San Francisco also released the 2019 minimum expenditure rates, annual HCSO notice, and employee waiver forms. (See our February 21, 2019 *For Your Information.*)

Navigating telehealth benefits compliance issues

Most large employers currently offer some form of telehealth benefits. These services can be a convenient and cost-effective resource for participants and employers. Employers should be aware, however, that offering telehealth benefits may have implications under federal laws, including ERISA, COBRA, the ACA, IRS rules governing HSAs, HIPAA privacy and security, and mental health parity laws. Our February 27, 2019 *FYI In-Depth* highlights specific compliance issues for telehealth programs under these federal laws and discusses common themes in state-based regulation of these programs.

Produced by the Knowledge Resource Center

The Knowledge Resource Center is responsible for national multi-practice compliance consulting, analysis and publications, government relations, research, surveys, training, and knowledge management. For more information, please contact your account executive.