



New Proposed HIPAA Provision

HIPAA has been around for some time. Basically HIPAA was enacted to protect an individual's health information called PHI. HIPAA requires medical providers (e.g. physicians and hospitals) to protect the patient's medical records. However, the providers have the right to disclose PHI to a health plan without the person's permission. That is, the provider has the right to send the person's PHI to the health plan so that the health plan can pay the provider. The latest proposed regulations say that if the person pays the provider directly, the person can demand the provider not send his or her PHI to the health plan. The following article talks about this new rule:

<http://tinyurl.com/29te98j>

The proposed rule basically says if the patient is willing to pay the entire claim, then there is no need for the provider to contact the plan. Note that the rule is only in proposed format and mostly impacts providers. However, I thought you may be interested in this recent development.

Government Withdraws Previous HIPAA Rules

The pace in which the government is issuing new rules on a wide range of topics is mind numbing. With health care reform the government (i.e. the Department of Health and Human Services, Internal Revenue Service and Department of Labor) is spitting out more regulations than ever before. If that is not bad enough, the government often modifies

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and, in this case, completely withdrew some of the HIPAA rules. The following article illustrates this point:

<http://www.hr.cch.com/news/benefits/081010.asp>

In short, the government keeps changing the rules as it goes along. However, I guess if you are the government, you can do that and get away with it.

Additional HIRE Guidance

The Hiring Incentives to Restore Employment Act (HIRE), which was signed into law on March 18, 2010, provides tax incentives for businesses to hire unemployed workers under certain circumstances. The Federal government has provided a lot of material on the new law. The following article talks about the latest guidance and also contains links to previous articles concerning HIRE:

<http://www.mcguirewoods.com/news-resources/item.asp?item=5016>

Basically HIRE provides (1) a 6.2 % payroll tax incentive for employers who hire unemployed workers after February 3, 2010 and before the end of this year and (2) a \$1,000 general business tax credit for each worker retained by the employer for at least one year.

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Health Care Exchanges

One of the main (and most controversial) components of health care reform is that, beginning in 2014, most individuals will be required to buy health coverage or pay a penalty. Individuals will be able to buy that coverage through state run health care exchanges. Even though the health care exchanges will be run by the states, the Federal government will have a role in developing the exchanges. The Department of Health and Human Services is asking for public comments on how the exchanges should be set up. Employers are encouraged to submit their suggestions. The following is a link to an article talking about the submission process:

<http://benefitslink.com/articles/guests/washbull100809a.html>

It is difficult to predict whether your comments will have any impact but if you are so inclined, here is your opportunity to add your 2 cents to the mix.

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Impact of Health Care Reform

It is, in my opinion, impossible to predict what impact health care reform will ultimately have on the health care system because the bulk of the provisions are not effective until 2014. The biggest question is what impact the legislation will have on costs. It is one thing to mandate a bunch of provisions but the real issue is how much is this all going to cost. The following article tries to predict the overall impact of the new law on different size businesses.

<http://www.urban.org/uploadedpdf/412180-ppaca-businesses.pdf>

Along these same lines I am attaching a link to an article by United HealthCare that outlines United Healthcare's predictions.

<http://www.mcgohanbrabender.com/documents/content/710.pdf>

According to United Healthcare, the premium increase attributable to health care reform can be as little as .7% to as much as 8.7%. At this stage I doubt that anyone knows with certainty the long term impact health care reform will have on premiums.

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New Appeal Procedures

All health plans (i.e. both fully insured and self funded) have to give participants an opportunity to appeal an adverse decision. In the case of a fully insured plan, participants are permitted, by Ohio statute, to request an external review. Most self funded health plans are exempt from state laws and, therefore, are not required to offer participants an external review option.

Health care reform imposes new appeals procedures on non-grandfathered health plans for plan year beginning on or after September 23, 2010. The new rules only apply to non-grandfathered health plans (see this Newsletter below and the Newsletter dated June 30, 2010) and really only impact self funded health plans. That is, fully insured health plans in Ohio have been subject to an external review process. Therefore, the real impact of the new external review procedures will be felt by non-grandfathered self funded health plans in that they will have to comply with the new external rule procedures for the first time. In other words, fully insured health plans already have been subject to an external appeal process so the new rules will not have a major impact on those plans. However, self funded health plans were not required to have an external review procedure in place. With health care reform non-grandfathered self funded health plans will have to, by statute, be required to establish an external review process.

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http://www.vorys.com/media/publication/238_Claims%20and%20Appeals%20Under%20the%20Affordable%20Care%20Act.pdf

Having an outside third party review appeals is not a bad thing but there is a cost associated with the review that will probably impact rates down the road. Another potential issue from the plan's standpoint is that the plan will have to continue coverage during the appeal process. This is a strong incentive for the plan to speed up the process as opposed to dragging their feet.

IRS Audits

The government is looking for ways to raise money so the fact the IRS is starting to audit businesses should not come as any surprise. However, the attached article says the IRS is going to start to look at items previously ignored by most auditors. One hot topic has been the misclassification of employees as independent contractors. This will continue to be the focus of the audits but, once the agents get started, they may also look at the fringe benefits.

<http://www.pillsburylaw.com/index.cfm?pageid=34&itemid=39775>

Now may be a good time to make sure "your house is in order" when it comes to items that often are over looked like employee discounts, moving expenses and other non-main stream benefits.

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Non-Grandfathered Health Plans

The government issued the rules explaining grandfathered vs. non-grandfathered health plans a couple of months ago. However, there continues to be good articles on the topic and the following is a link to one of the articles:

<http://tinyurl.com/26s9ppr>

I think it is prudent to read a number of articles on a topic this important. First, each article has a different perspective and, second, there is usually a nugget to be gleaned from each article. In other words, chances are you will learn something new from each one.

Consumer Driven Health Plan

Consumer driven health plans have been around for awhile. The latest innovation has been high deductible health plans with HSAs. The following is an in-depth article on consumer driven health plans.

http://www.ebri.org/pdf/briefspdf/EBRI_IB_08-2010_No345_CDHPs.pdf

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The article provides a number of statistics and some will find it interesting reading on how consumer driven plans have impacted trends.



Health Care Reform and HSAs

The Republicans have issued a paper saying that health care reform will destroy HSAs. The Republican Party fought health care reform at every turn and with the November elections just around the corner, they are renewing their attack on the legislation. The following is the link the article:

<http://www.gop.gov/policy-news/10/08/03/obamacare-and-hsas-issues>

Whether this strategy will work in November remains to be seen. However, the article does raise some valid points.

Nursing Mothers

As we reported earlier, health care reform amended the Fair Labor Standards Act to require most employers to provide nursing mothers time and a place to express milk. The Department of Labor issued a fact sheet on the new rules. You can access that fact sheet as follows:

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<http://www.dol.gov/whd/regs/compliance/whdfs73.pdf>

Employers should become familiar with the rules.

If you have any questions regarding any of the articles in this Newsletter, please contact your McGohan Brabender Account Team.

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