



COMPLIANCE UPDATE

March 17, 2014

Penalties Under Health Care Reform

There has been a flurry of activities with respect to health care reform. In fact, it is hard to keep track of all the new rules, delays, etc. Nevertheless, you have to stay on top of it or you could face pretty severe penalties. This article lists the potential penalties for noncompliance.

<http://bit.ly/1o0Vuff>

This article does a really good job of listing the potential penalties for failing to comply so I wanted to put it at the top of newsletter!!

New HIPAA Deadline Approaching

Most people will say that HIPAA requires certain entities to secure and keep confidential protected health information, or PHI, and they would be correct. However, HIPAA is broader than that. One of those requirements is that group health plans adopt a national Health Plan Identifier number to help facilitate electronic transactions. The plan must apply for that number by November 5, 2014, and must certify to the government it has complied by the end of this year.

<http://bit.ly/1fwD13V>

<http://bit.ly/1i9pLXi>

If you sponsor a self-funded health plan and you are using a TPA, you should contact the TPA to ensure that they are aware of and will comply with these requirements.

Reinsurance Fee Exemption

One of the main components of health care reform is the exchanges or

marketplaces where individuals can get health coverage. The temporary reinsurance fee was established to reimburse the carriers for the anticipated high risk associated with those that go to the exchange. This is assessed against health plans based on the people covered under the plan. The fee for this year is \$63 per person and will be \$44 per person next year. However, the government is going to exempt certain health plans from paying the fee next year.

<http://bit.ly/1npF03O>

The fee will not be assessed against multi-employer plans and self-funded health plans that are self-administered. Note that the second exemption only applies if the plan is both self-funded and self-administered. So if you are self-funded and using an outside TPA, then your plan is subject to the fee.

Employer Shared Responsibility and Staffing Agencies

Everyone knows by now that larger employers have to provide quality/affordable health coverage to full-time employees or pay a penalty. The penalty is based on the employer's common law employees. Therefore, it is critical that the employer properly identify its common law employees. One gray area has to do with staffing agencies and PEOs. Many employers utilize these organizations and the question becomes who is the employer.

<http://bit.ly/1cFuaSH>

This article talks about the potential pitfalls and how best to protect yourself if you do use staffing agencies or PEOs.

ACA: Here or not?

I think most people will admit that the health care reform rollout has not gone well. It is, of course, impossible to predict the future but this article talks about the possible repeal of the statute.

<http://bit.ly/1fESIL9>

I am not going to ruin the surprise, so you will have to read this article. However, health care reform is currently the law of the land and you need to comply. See the first article to this newsletter.

New Whistleblower Rules

It would be counterproductive to enact rules regarding health coverage but allowing employers to retaliate against employees who take advantage of the statute. Therefore, health care reform has protections for employees that (1) take advantage of the health care exchanges or marketplaces and (2) who report violations.

<http://bit.ly/1fESRyg>

This article talks about the latest rules from the Occupational Safety and Health Administration (OSHA) that protect employees under health care reform.

Private Exchanges - Make Sense?

Health care reform has increased the attention toward private exchanges. That is, more employers are considering this option as a way to provide health coverage (and other benefits) to employees. However, the concept still is unproven today.

<http://bit.ly/1ilpZvi>

This article looks at potential barriers to participating in a private exchange. As with all aspects of health coverage, the landscape is evolving and private exchanges will continue to develop.

Individual Mandates - Delay or Not?

The Obama administration continues to delay key provisions of the Affordable Care Act (i.e. health care reform). In a recent hearing the Secretary of Health and Human Services said that the individual mandate (i.e. the requirement most Americans have health coverage) will not be delayed.

<http://nyti.ms/1npFdnY>

It appears the government is going to enforce the individual mandate. However, if the government does, in fact, delay this provision it would not be the first time the administration has changed course.

Final Rules of Employer Reporting Under ACA

Everyone has been focusing on the potential penalties under the employer shared responsibility (i.e. play or pay) rules, but you also have to consider the reporting obligations under the statute. That is, the government is going to need a substantial amount of information to actually administer the law.

<http://bit.ly/1giKrl0>

<http://bit.ly/1gqITkR>

The government has just released the rules outlining the employer's reporting responsibilities. There are two sets of rules but the data can be reported on one combined form. One set of rules applies to all large employers (i.e. those with 50 or more employees) and the other set applies to insurers and those with self-funded health plans. The rules are effective now but the government has indicated it will not penalize employers for failing to comply this year. You should, however, read the attached article and use your best efforts to comply.

Wellness Programs and ACA

Employers are starting to realize that the only true way to control health care costs is to reduce the actual claims. When you consider that most of the claims are incurred due to lifestyle, it simply makes sense to encourage employees and their family members to make healthier choices. As a result, employers are adopting wellness programs.

<http://bit.ly/1iJUXf1>

This article talks about the latest wellness rules and how they interact with health care reform. These rules are not new but the article lays them out in an easy to understand format.