

NEWS & VIEWS

An Insider's Perspective on HOT Health & Welfare Benefit Topics

TIPS FOR CONDUCTING A SUCCESSFUL COMPLIANCE REVIEW



In 2010, health benefit managers experienced significant plan changes with the passing of The Patient Protection and Affordable Care Act (PPACA). Compliance requirements have been delivered by the various governing agencies on an almost daily basis. As the flurry of open enrollment activities subsides, it is crucial that health benefit managers have the resources needed to ensure a successful compliance review.

With most 2011 plans in place, it is an ideal time to identify areas where some benefit plans may not be in compliance with federal government regulations. Managers are mandated to take appropriate action to correct all guideline deficiencies. In addition, with rules/regulations constantly in flux, it's always a good idea to do an overall general checkup on plans at least once a year. An annual checkup is also important since representatives of the Internal Revenue Service (IRS), Department of Labor (DOL) and/or Department of Health and Human Services (DHHS) can audit plans at any time. If this occurs, companies have only a short time to produce required documents.

COMMON PROBLEMS WITH HEALTH AND WELFARE PLANS

- The terms of the plan are ambiguous.
- The Summary Plan Descriptions (SPDs) do not match plan documents and/or insurance contracts.
- Notices are missing requisite content.
- Deadlines are missed.

DOCUMENTS THAT THE IRS, DOL OR DHHS MIGHT REQUEST

Plan policies and procedures (used in COBRA administration), minutes of benefit committee meetings, Cafeteria Plan documents, insurance plan documents and contracts. Other requests might include SPDs, 5500 Annual Reports, Summary Annual Reports (SARs), and HIPAA notices and procedures. Documentation that service providers produce might also be requested.

KEY QUESTIONS TO ASK WHEN REVIEWING DOCUMENTATION

1. Are plan documents consistent, complete, and up to date?
2. For insured plans, what constitutes the plan documents?
3. Is there an SPD for each plan?
4. Do plan documents and SPDs include all content required by ERISA?
5. Are all plan design changes reflected in the plan documents, SPDs, and Summary of Material Modifications (SMM)?
6. Is there a written plan document for the Cafeteria Plan?
7. Have SPDs been furnished to participants within the time prescribed by law?

The list of required contents for an SPD is long and detailed. Most insurance plan SPD information almost always needs a wrap plan document, a wrap SPD, or both.



MCG provides our clients with extensive compliance reviews including the four major areas of document review.

Please contact us at 805-239-9242 or email us at info@MCGteam.com for more information.



FOUR MAJOR AREAS FOR DOCUMENT REVIEW

1. Review the following notices for content and distribution procedures.

- *PPACA Notice and Disclosures* - Customize model notices and amend SPD.
- *Pre-existing Condition Exclusion (PCE)* (only if your plan has a PCE) - Initial notice, initial notice of special enrollment rights, and individual notice of PCE determination (subject to PPACA guidelines).
- *HIPAA* - Certificate of creditable coverage, special enrollment notices, notice of privacy practices, annual notice to DHHS.
- *Medicare Part D (two annual notices)* - Notice to eligible individuals and notices to the Centers for Medicare and Medicaid Services (CMS).
- *COBRA* - Initial notice of premium short by an insignificant amount, and notice of change in premium.
- *USERRA* - Notice of rights and obligations and continuation of health plan coverage.
- *WHCRA* - Enrollment notice and annual notice.
- *NMHPA* - Statement in SPD.
- *GINA* - Genetic Information Nondiscrimination Act of 2008 disclosure.
- *CHIP* - Children's Health Insurance Program notice.

2. Review service provider selection, monitoring, and contracts.

The choice of a plan service provider is a fiduciary function. Companies have an ongoing obligation to monitor the performance of plan service providers, as well as documenting this monitoring. To do this, ensure that service provider agreements are up to date and accurate. In addition, if Protected Health Information is disclosed to a service plan provider, make sure that a HIPAA business associate contract has been obtained.

3. Review Form 5500 filing status and accuracy.

Identify all plans that require Form 5500 filing - and ensure that they were filed. Review these plans for consistency from year-to-year. Verify items like same employer tax identification number, plan numbers, and plan names. The Form 5500 and SAR data should be consistent.

4. Identify and talk with key players about how the plans operate.

Key players might include human resources and payroll personnel, as well as those familiar with HRIS, COBRA, FSA policies, and the administrator vendor. Remember that actual operations often differ from plan documents. Lastly, review copies of any forms that were used. If any plan terms have recently changed, make sure that operations have also changed in order to comply with the newest terms.

After conducting a compliance review, benefit managers will now have the needed evidence that demonstrates that their plan is operating in accordance to its terms. A thorough compliance review will also confirm that benefit managers are taking the role of plan sponsor seriously.

AT A GLANCE: ANNUAL COMPLIANCE CHECKLIST

PPACA Notices and Disclosures

- Grandfather Notice
 - Adult Dependent Notice
 - Unlimited Lifetime Notice
 - Over-the-Counter Drug Exclusion
 - FSA/HSA/HRA tax penalty increase
 - Pre-Existing Condition Limits Exclusion for under age 19
 - Preventive Care Enhancement*
 - Patient Protection Notice*
 - Emergency Services (No Referral)*
 - Appeals and External Review Processes
- * *Grandfathered plans must comply by 2014 plan year.*

Annual Health and Welfare Plan Notices and Disclosures

- Pre-existing Condition Exclusion Notice
- HIPAA Privacy Notice
- Medicare Part D Notice
- Online Notice to the CMS on status of your Medicare Part D Creditable Coverage
- COBRA Notice(s)
- USERRA, WHCRA, NMHPA, GINA, CHIP Notices and Disclosures
- 5500 Annual Report with Appropriate Schedules
- Summary Annual Report (SAR)
- Summary of Material Modifications (SMM)
- Summary Plan Descriptions (SPDs)
- Cafeteria Plan Flexible Spending Account (FSA) Discrimination Testing
- Annual Notice to DHHS

MCG can perform your company's compliance review. Please contact us at info@MCGteam.com or call us at 805-239-9242. Visit our website at www.MCGteam.com for additional information on our services.

