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New Health Plan Identifier and Certification Requirements for Self-Insured Health Plans

Martin Haitz | (484) 270-2575 | martin.haitz@marcumfs.com

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The ACA and HIPAA require that self-insured health plans obtain and use a 10-digit health plan identifier ("HPID") in certain transactions. With some exceptions, health plans must also provide certification to HHS of compliance with the standards and operating rules. The goal of requiring HPIDs is to reduce administrative costs by adopting a set of operating rules for each covered transaction to simplify the routing, review and payment of electronic transactions and reduce errors and manual intervention.

Below you will find additional information regarding HPIDs.

Who is Responsible for Obtaining an HPID?

For self-insured health plans, employers will obtain an HPID. It should be noted that third-party administrators ("TPAs") will not obtain the HPID. HPIDs will be obtained by carriers on behalf of insured plans.

Specifically, a controlling health plan ("CHP") must obtain a number for itself. A CHP is a health plan that controls its own business activities, actions or policies, or is controlled by an entity that is not a health plan. A subhealth plan ("SHP") is eligible, but not required, to get an HPID. An SHP is a health plan whose business activities, actions or policies are directed by a CHP. To determine whether an SHP should get an HPID, the CHP and/or the SHP should consider whether the SHP needs to be identified in the standard transactions. A CHP may get an HPID for its SHP or may direct an SHP to get an HPID.

This language is confusing for employers who generally do not administer their own health plans. It appears that any health-related plan (see below) would be a CHP. It is possible that certain health plans, for example, dental plans, could be considered to be SHPs where they are seen to be directed by the major medical plan or where affiliated employers have plans directed by a parent company's plans. In addition, to the extent certain coverages are wrapped under one plan, these health-related plans might be viewed as SHPs rather than CHPs.

Employers with self-insured plans should consult legal counsel if they have questions about whether or not their plans might be CHPs or SHPs.

Who do the Rules Apply to?

The rules apply to “health plans” that perform “covered transactions” electronically between two “covered entities.”

“Health plans” include all health-related plans subject to the HIPAA Privacy Rule, including medical plans. However, “health plans” do not include:

- Plans that are self-administered with less than 50 participants;
- Coverage only for accident, or disability income insurance, or any combination thereof;
- Workers’ compensation or similar insurance; and
- Coverage for on-site medical clinics.

“Covered transactions” include claims and encounters, payment and remittance advice, claims status request and response, eligibility and benefit inquiry and response, benefit enrollment and disenrollment, referrals and authorizations, and premium payment. These are activities typically performed by a TPA on behalf of a plan.

“Covered entity” is a health plan, a health care clearinghouse, or a health care provider.

Further guidance is needed to clarify application of the HPID requirement to non-major medical plans. At this time, there is no exception for dental or vision plans. It is possible that health FSAs and HRAs will not be considered to conduct transactions between two covered entities, so they would be exempt.

What are the Deadlines?

Obtaining the HPID

Large health plans (more than $5 million in annual claim receipts) must obtain an HPID by November 5, 2014.

Small health plans ($5 million or less in annual claim receipts) must obtain an HPID by November 5, 2015.

Using the HPID

All health plans, regardless of size, must begin using the HPID to identify the health plan in a standard transaction

beginning November 7, 2016. If the employer/plan uses a business associate (for example, a TPA) to conduct standard transactions on its behalf, the employer must require its business associate to use an HPID to identify a health plan in all covered transactions. Including this requirement in the service agreement is recommended.

Certification of Compliance

Under a proposed rule, CHPs that obtained an HPID before January 1, 2015 (generally large health plans) must, by December 31, 2015, provide certification to HHS of compliance with the standards and operating rules by showing that the plan conducted its covered transactions in compliance with the applicable regulations. A plan that obtained an HPID after January 1, 2015 (but before December 31, 2016) has 365 days from the date that number was obtained to satisfy the certification and testing requirement. This requirement will generally include documenting the number of covered lives in the CHP and certifying compliance with appropriate credentials. These rules are in proposed format and final guidance is expected to further clarify the certification requirement.

How do you Obtain an HPID?

To obtain an HPID an employer must access the Health Plan and Other Entity Enumeration System ("HPOES"). HPOES is housed within CMS's Health Insurance Oversight System ("HIOS"). HIOS is integrated with the CMS Enterprise portal and users can access at https://portal.cms.gov/.

Employers will be directed to:

1. Click the "Create Profile and Apply for HPID" button.
2. Click the "HIOS Main Page" button at the top.
3. Enter the following information when prompted:
    - Company Legal Name
    - Federal Employer Identification Number
    - National Association of Insurance Commissioners ("NAIC") number or Payer Identification number used in standard transactions (the plan's TPA may be able to provide this number)
    - Incorporated State
    - Domiciliary Address
    - Authorizing Official Contact Information and Title
4. Click the "Apply for HPID" button.
5. Await email confirmation of an approved application.
6. Provide the number to the TPA.

Is there a Penalty for Noncompliance?

Proposed regulations only impose a penalty with respect to a "major medical policy" which is defined as an insurance policy that covers accident and sickness and provides outpatient, hospital, medical and surgical expense coverage. It is unclear whether there is a penalty for noncompliance with respect to self-insured plans.

Assuming the penalty does apply, a self-insured health plan may be assessed a penalty if it fails to meet the certification and documentation requirements. HHS will assess a penalty based on each covered life of the CHP (including its SHPs) beginning at $1 per covered life per day, up to certain maximums, until the certification is complete. A plan that knowingly provides inaccurate or incomplete information in a statement of certification or documentation of compliance will pay a higher penalty subject to an overall limit. The amount of the penalty is subject to increase, based on the percentage of annual national health care expenditures, as determined by HHS.

HHS is required to conduct periodic audits to ensure that health plans (including third parties that it contracts with) are in compliance with any applicable standards and operating rules.

Because all CHPs are required to obtain an HPID, HHS will be able to compare a roster of the CHPs that have certified compliance with the First Certification Transactions with a roster of CHPs that have obtained HPIDs to identify CHPs that may be subject to penalties. The proposed regulations detail an administrative process for HHS to assess, and for CHPs to contest, penalties.

What Should Employers Do?

Employers should identify all self-insured health-related plans. Employers may want to consider waiting for additional guidance regarding the application to plans other than the major medical plan (e.g., dental and vision plans) prior to obtaining an HPID (but wait no later than the effective date).

Employers with large self-insured health plans should obtain an HPID no later than November 5, 2014; employers with small self-insured health plans should obtain an HPID no later than November 5, 2015.

Regarding certification requirements, employers should wait for further guidance and begin discussions with TPAs to ensure compliance by December 31, 2015 (although small plans must comply within 365 days of receiving an HPID).

Employers should update service agreements with TPAs to require inclusion of HPIDs in standard transactions no later than November 7, 2016.

For additional information on these requirements, visit:

http://www.cms.gov/Regulations-and-Guidance/HIPAA-Administrative-Simplification/Affordable-Care-Act/Health-Plan-Identifier.html