



Avalanche of New Guidance

HHS, DOL and IRS (the “Departments”) took advantage of this election period to release an unusually large and varied collection of guidance on key aspects of the ACA. Here is a list of these key notices.

- **Non-hospitalization plans.** In order to forestall the proliferation of plans that fail to cover in-patient hospitalization or physician services, the Departments announced that they will propose amendments to clarify that such plans do not meet the requirements for minimum value. This guidance will not apply to plans entered into before November 4, 2014.

The rules would have been less forgiving except for the fact that there was an apparent glitch in the online minimum value calculator.

- **Reference-based pricing plans.** The Departments also issued FAQs that will make it very difficult for reference-based pricing plans to demonstrate use of a reasonable method to ensure adequate access to quality providers at the reference price. The elements of analysis include type of services covered, reasonable access, quality standards, exceptions process and disclosure requirements.

These rules will make it very difficult for most reference-based pricing plans to pass muster.

- **State regulation of stop loss insurance.** The DOL provided a technical release that provides states may continue to regulate stop loss insurance policies, so long as the law regulates the insurance company and business of insurance. This release extends to state laws that set forth minimum attachment points.
- **HPID.** CMS announced a delay (effective 10/31/14 and until further notice) of enforcement of the health plan identifier (HPID) requirement in HIPAA transactions.

- **Individual insurance.** In the category of “How many times do we have to tell you this?” the Departments issued yet more FAQs regarding individual premium reimbursement arrangements, double dipping on exchange coverage, and policy or cash options.

Will this set of FAQs do the trick and stop marketing of these plans? Probably not, these vendors are determined to try to find a loophole.

- **Cafeteria plan changes.** The annual limit on FSA contributions is increased to \$2550. Other itemized deductions, credits and exemptions were similarly adjusted to account for inflation.

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