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Our Employee Benefits and Executive Compensation attorneys have a diversified national practice. We assist clients of all shapes and sizes - businesses in virtually every industry sector, 501(c)(3)s and other tax-exempt organizations, and governmental entities under 414(d) - on compensation and benefit-related issues.

Extended Grace Period Available (What internal claims procedures apply now?)

What's happened now?

On September 20, 2010, the Department of Labor ("DOL") issued Technical Release 2010-02, which provides an extended grace period for some of the modifications to the internal claims and review process required by the interim final regulations issued earlier this summer.¹ Before this technical release was issued, all of the changes required by the regulations were effective January 1, 2011 for calendar year non-grandfathered group health plans.²

What's the grace period mean?

Under the extended grace period, enforcement actions will not be taken by the DOL or the Internal Revenue Service against a non-grandfathered group health plan before July 1, 2011, so long as the group health plan is making a good-faith effort to implement (even though not yet in place) the affected regulatory requirements outlined below.

What regulatory requirements are affected?

The grace period applies only to the following regulatory requirements:

Strict Adherence. The requirement that, if all of the regulatory rules are not strictly complied with by a non-grandfathered group health plan, a claim is deemed exhausted – allowing the claimant to bypass all or part of the internal review process.

Language Other Than English. The requirement that, if certain mathematical tests are met, all notices provided to participants of non-grandfathered group health plans must be provided in a culturally and linguistically appropriate manner – resulting in compulsory issuance of non-English notices, required inclusion of statements about the availability of non-English notices, and mandated availability of non-English customer assistance.

Additional Content. The requirement that notices sent to participants of non-grandfathered group health plans must provide certain content, including the date of service; the health care provider; any claim amount; diagnosis, treatment, and denial codes and their meanings; any standards used in denying the claim, such as medical necessity; and, in the case of a final internal adverse benefit determination, a discussion of the decision.

Urgent Care Notification. The requirement that non-grandfathered group health plans must notify claimants of benefits determinations for urgent care claims as soon as possible but not later than 24 hours after the plan receives the claim.

What do I need to do now?

Breathe a small sigh of relief. This technical release allows your non-grandfathered group health plan extra time to comply with some of the requirements of the regulations.

Review and revise enrollment materials. Review your non-grandfathered group health plan's open enrollment materials. If they discuss the new internal and external claims and appeals process, they probably need revision.

Review and revise summary plan description(s). Review your non-grandfathered group health plan's summary plan description(s). If they discuss the new internal and external claims and appeals process, you will probably need to revise them again, through a summary of material modification or otherwise, to reflect the extended grace period. Otherwise, participants or others may attempt to enforce plan terms that do not take the extended grace period into account.

We would be happy to answer any questions that you may have about what this grace period means for your plan, health care reform in general, or any other employee benefits matters. Please contact any member of our **Employee Benefits & Executive Compensation** team to discuss these issues.

[1] These regulations, which were issued July 23, 2010, were discussed in a prior Alert, [Material Changes Now, More Material Changes Coming](#).

[2] The effective date for all other non-grandfathered group health plans was the first plan year on or after September 23, 2010.

Please contact any of the attorneys in our **Employee Benefits & Executive Compensation** group if you have any questions regarding this alert.

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