PROPOSED REGULATIONS MANDATE NEW PRICE AND COST-SHARING DISCLOSURES FOR GROUP HEALTH PLANS

Hodgson Russ Employee Benefits Newsletter
January 31, 2020

On November 27, 2019, the Internal Revenue Service, U.S. Department of Labor, and U.S. Department of Health and Human Services ("Agencies") issued proposed regulations setting forth new disclosure requirements for insured and self-insured group health plan sponsors to allow increased access to pricing information by plan participants and beneficiaries.

Upon the request of a participant, beneficiary or enrollee, the proposed regulations require group health plans and insurance issuers to provide personalized cost-sharing information regarding a particular covered item or service. The information must be provided through an online self-service tool and in paper form upon the request of the participant. Price and cost-sharing data that must be disclosed include the following:

- Cost-sharing information – An estimate of the participant's liability for deductibles, coinsurance and copayments regarding the particular covered item or service.
- Accumulated Amount – A summary of the total cost-sharing amount the participant has incurred as of the date of the request;
- Negotiated Rate – The dollar amount the plan or insurer has contractually agreed to pay in-network providers for the requested item or service;
- Out of Network Allowed Amount – The amount that the plan or insurer will pay for the covered item or service if provided by an out-of-network provider;
- Bundled Services – If items or services are provided in a bundled arrangement, a list of the items or services for which the cost-sharing information is being disclosed;
- Prerequisites – A notice if coverage for the item or service is contingent upon satisfaction of prerequisites such as prior authorization, preauthorization, prior approval, precertification or other care management requirements; and
- Special Disclosures – A notice explaining how balance billing or changes to actual items and services may impact the cost estimate, and relaying other disclaimers.

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The DOL issued a model notice that plans can use to comply with these disclosure requirements. Insured group health plans may rely upon their carriers to provide compliant disclosures pursuant to a written services agreement.

In addition to these personalized disclosures, issuers and plans must make public disclosure of the in-network negotiated rates for covered items and services, and disclose historical data regarding payments of allowed amounts to out-of-network providers. These public disclosures must be provided through standardized, machine-readable files.

The transparency disclosure rules will be effective one year after the regulations are finalized. The model disclosure can be found here.

Federal Register, Vol. 84, No. 229, Wednesday, November 27, 2019, Proposed Rule: 26 CFR Part 54, 29 CFR Part 2590, and 45 CFR Parts 147, and 158, "Transparency in Coverage."