

New IRS GROUP HEALTH PLAN EXCISE TAX PAYMENT & REPORTING IN 2010

Recent changes made to the IRS code may impact the way you administer your group health plan.

Effective January 1, 2010, employers that sponsor group health plans will be required to report and pay excise taxes for failure to comply with the various federal benefit mandates including COBRA, HIPAA, Genetic Information Non-discrimination Act (GINA), Mental Health Parity and Addiction Equity Act (MHPAEA), Newborns' and Mothers Health Protection Act (NMHPA) and Michelle's Law. The excise taxes for non-compliance are generally \$100 per day per person of non-compliance. Until now, compliance failures in these areas rarely resulted in an excise tax being levied.

Actions Needed:

In order to avoid group health plan excise taxes under this new self-report and pay mandate, you need to ensure that you have policies and procedures in place that are reasonably designed to ensure compliance with these important mandates. A review of these laws and their requirements for you as an employer, and the application of these requirements to your group health plan, with your benefit attorney is encouraged to ensure that you understand what the requirements are for maintaining compliance.

If a plan failure occurs despite the mechanisms in place to guard against such failures, you must promptly take the action necessary to correct the violation within 30 days of discovery. The regulations deem "correction" to have occurred when the failure has been retroactively undone to the extent possible and that the person to whom the failure relates is placed in a financial position which is as good as he or she would have been had the failure not occurred.

As this is a self-report and pay requirement, detailed record-keeping and tracking mechanisms will be a must. Starting with the first tax return that is due on or after January 1, 2010, the Plan must report the number and the length of each instance of non-compliance and pay the IRS as part of their regular tax filings (without extension).

What HMA is doing to ensure compliance:

HMA has reviewed our internal processes and procedures to make sure that we are in compliance with these mandates. In addition, if HMA receives something from you that will cause the plan to be out of compliance, we will notify you of the non-compliance, and await the Plan's decision on correction. We also encourage you to do an audit of your health plan enrollment and invoice on a regular basis to ensure that all terminations are being sent in a timely manner.

For More Information:

Additional information on the Group Health Plan Excise Tax requirements (IRS Code sections 4980B, 4980D, 4980E, and 4980G) and the Tax Form 8928 is available through the IRS.gov website. The final regulations can be viewed at: <http://edocket.access.gpo.gov/2009/pdf/E9-21225.pdf> HMA strongly recommends that you contact your attorney and a tax professional for specific information about how to comply with this new self report and pay requirement.



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