

U.S. Department of Labor Is Investigating Group Health Insurance Plans

2/19/2013

Practices: Employment, Labor & Benefits

1. The DOL Is Conducting Plan Audits.

Recently, a client received a letter from the U.S. Department of Labor ("DOL") notifying them that their group health insurance plan would be audited to check for compliance with the various document, notice and procedural requirements required by the various laws enforced by the DOL. The client employs slightly over 100 employees.

The letter, which was sent by mail and facsimile, established an appointment date approximately six (6) weeks later, requested cooperation with the examination of the plan, and provided a three page checklist list of documents and information that the DOL required be made available for the meeting. The DOL also required that specific plan documents (e.g.: summary plan descriptions, Form 5500 annual reports, service provider contracts) be copied by the client for the DOL investigator to retain. The investigator spent a full-day on site reviewing the documents and a second day interviewing the plan administrator about plan procedures. This past week, Frank, as Chair of the Chicago Bar Association's Employee Benefits Committee, confirmed with the DOL representatives present that the DOL will continue to proactively conduct group health insurance plan audits as health care reform regulations continue to require action by companies throughout the country.

2. The DOL's Authority to Conduct an Audit:

The DOL is responsible for the administration and enforcement of Title I of the Employee Retirement Security Act ("ERISA") which governs the operation of company-sponsored group health insurance plans. As part of this enforcement authority, ERISA authorizes the Secretary of Labor to investigate plans and require plan sponsors to submit plan documents, reports, books, records, etc. to confirm compliance with the laws enforced by the DOL.

3. Health Care Reform Compliance Included in Audit:

In addition to investigating general plan compliance, the DOL is specifically seeking proof of compliance with various health care reform mandates, including but not limited to, obtaining copies of any grandfathered health plan disclosure statements, the required notices for dependent enrollment to age 26, information about annual limits, notices related to preventive care and information about how the recent medical loss ratio payments were applied.

4. Action Required:

We strongly recommend that all companies that sponsor a group health insurance plan review the attached "**Audit Compliance Checklist**" to ensure that you could establish compliance with a DOL Audit. Because the audit includes both non-health care reform compliance and health care reform compliance issues and because the DOL is not simply targeting large companies, it is important to use the DOL's checklist to perform an internal compliance assessment.