



Bret Busacker

Partner
208.383.3922
Boise
bfbusacker@hollandhart.com

End of Year Planning and Compliance Deadlines for Health Plans

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Insight — August 29, 2014

Now that fall is in the air and school has started, we thought this would be a good time to summarize some of the key health and welfare benefit deadlines that are approaching this fall:

September 22

Updated Business Associate Agreements. New HIPAA privacy and security rules adopted last year require revisions to most HIPAA business associate agreements by **September 22, 2014**. Employer-sponsored health plans that are subject to HIPAA (generally including self-insured health plans and all health flexible spending arrangements (FSAs)) are required to have agreements with business associates, service providers dealing with participant health information on behalf of the plan, that require business associates to comply with the HIPAA privacy and security rules. In 2013, the HIPAA privacy and security rules were revised, and business associate agreements must be revised to comply with the new rules by September 22, 2014. Your business associates may have already contacted you about revising your business associate agreements. However, employers are ultimately responsible to identify all business associates and ensure that compliant business associate agreements are in place before the deadline.

September 30

Summary Annual Report for Calendar Year Plans. Plans (including retirement plans and welfare plans) that filed the 2013 Form 5500 by July 31, 2014 must provide the Summary Annual Report for the 2013 calendar year to plan participants by no later than **September 30, 2014**. Plans that file the 2013 Form 5500 on extension by October 15, 2014 must provide the Summary Annual Report by **December 15, 2014**.

October 14

Medicare Part D Notice of Creditable Coverage. Employers who offer prescription drug coverage to employees and retirees should provide a notice to plan participants and beneficiaries who are eligible for Medicare Part D (or to all participants) by **October 14, 2014** stating whether the employer prescription drug coverage is creditable coverage.

November 5

Deadline to Obtain Health Plan Identifier. All self-insured larger group health plans (those with annual costs of \$5 million or more) must obtain a unique group health plan identification number (HPID) from CMS by **November 5, 2014**. The HPID will be used in electronic communications involving plan related health information. For this reason, third party administrators of self-insured plans will either obtain the HPID or will coordinate with the plan sponsor in obtaining the HPID. Employers should confirm with their TPA that the plan will have an HPID by the deadline. Please note that employers should obtain an HPID for each group health plan they maintain. Accordingly, employers who have established a single wrap around group health plan that incorporates all of the group health plans of the employer may only need to obtain a single HPID. However, employers who maintain separate HRA, FSA, and/or medical/dental/vision plans may be required to obtain one HPID for each such group health plan. Smaller group health plans have until November 5, 2015 to obtain an HPID. Please go to this website for more information.

November 15

Transitional Reinsurance Fee Enrollment Information Due. Self-insured health plans must submit their enrollment information to HHS by **November 15, 2014** for purposes of calculating the 2014 Transitional Reinsurance fee for 2014. Self-insured health plans that are self-administered are exempt from the Transitional Reinsurance Fee in 2015 and 2016, but must pay the fee for 2014. Based on the enrollment information provided to HHS in 2014, self-insured plans will pay the fee beginning in January 2015.

General Fall Planning (no specific deadline)

ACA Shared Responsibility Planning. The Affordable Care Act employer shared responsibility penalties will begin to be imposed on employers with 100 or more full-time or full-time equivalent employees beginning January 1, 2015. Employers should start now to establish a policy for purposes of determining whether the employer will be subject to the ACA employer shared responsibility penalties and whether the employer is covering those full-time employees that must be offered coverage in order to avoid the shared responsibility penalty.

Summary of Benefits and Coverage, Women's Health and Cancer Rights Act Notice, Medicaid/CHIP Premium Assistance Notice, HIPPA Notice of Privacy Practices, and Exchange Notice. Employers should confirm that these notices are included with the enrollment materials provided to participants during open enrollment and to participants at the time of any mid-year enrollment due to becoming newly eligible for the plan. If these notices are not included with enrollment materials prepared by your provider, consider supplementing the enrollment materials with these notices. Employers should also confirm that their COBRA notices have been updated to reflect recent changes to the model COBRA notice to reflect the establishment of the Health Marketplace Exchanges.

If you have questions or would like more information please contact Bret Busacker or Bret Clark or any Holland & Hart Employee Benefits Attorney.

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