

**BenefitsBCLP**

## **HURRY AND GET YOUR HPID -- OR NOT!**

May 21, 2014

**Update:** See our subsequent post [here](#).

---

On September 5, 2012, the U.S. Department of Health and Human Services (HHS) published final regulations governing the requirement that health plans obtain a Health Plan Identifier number (HPID). The purpose of the HPID is to increase standardization within certain covered electronic transactions (e.g., claims, benefit payments and coordination of benefits), which is currently fraught with a system of multiple identifiers that differ in length and format.

So while the HPID is not a new development, it is gaining the attention of plan sponsors since the deadline for health plans to obtain an HPID is November 5, 2014 (a one-year extension is available for small health plans).

### **HPID Requirement**

Under the regulations, the requirement to obtain an HPID applies only to a Controlling Health Plan (CHP). A CHP is a health plan that (1) controls its own business activities, actions or policies OR (2) is controlled by an entity that is not a health plan. Consequently, most employer-sponsored health plans meet the criteria of a CHP and must obtain a HPID.

In contrast, a Subhealth Plan (SHP) is eligible for but is not required to obtain a HPID. An SHP is defined as a health plan whose business activities, actions or policies are directed by a CHP. Unfortunately, the regulations do not address what it means for a CHP to direct the business activities, actions or policies of another health plan. Must a plan sponsor apply for an HPID for each of its self-funded health plans? Would a dental or vision plan that is wrapped with a medical plan qualify as an SHP? What about health flexible spending accounts and health reimbursement accounts? Those are just a few of the questions left unanswered by the regulations.

In the absence of guidance from HHS, we turned to the application process for possible answers.

### **Application Process**

According to the HPID User Manual published by CMS, health plans apply for an HPID through the Health Plan and Other Entity Enumeration System (HPOES) within the Health Insurance Oversight System (HIOS) of the Centers for Medicare & Medicaid Services (CMS). Since a health plan is defined by reference to 45 C.F.R. 160.103 and includes entities such as a health insurance issuer and health maintenance organization, use of HIOS makes some sense. But neither HIOS nor HPOES has been designed to accommodate applications by sponsors of self-funded health plans.

The required data for a CHP to apply for an HPID is limited to: (1) Company name, EIN and address, (2) Name, title, phone number and email address of authorizing official and (3) NAIC number or Payer ID used in standard transactions. NAIC numbers are assigned to underwriting companies and are not applicable to self-funded plans. Thus, a plan sponsor must list a payer ID. It is unclear whether this would be the plan sponsor's EIN or a number associated with the TPA. Since the accuracy of the information associated with the HPID would become outdated each time there was a change in third-party administrators it seems more likely that the payer ID would be the plan sponsor's EIN. Yet, if the payer ID is the plan sponsor's EIN, it's difficult to see how a plan sponsor's HPID application would vary among its multiple CHPs, as there is not separate field in which to enter a plan name or description.

One would think that the regulations weren't intended to apply to self-funded health plans. However, even while acknowledging that many self-insured plans contract with a third party administrator (TPA) to perform health plan functions and do not always need to be identified in the covered transactions, HHS expressly stated that a self-insured health plan that qualifies as a CHP is required to obtain an HPID.

### **Sometimes It's Better to Wait**

A plan sponsor that is inclined to simply apply for an HPID for each of its group health plans should be aware that the HPID may become the identifier for future administrative simplification initiatives. For example, HHS is considering use of the HPID to track CHPs that have satisfied the certification of compliance for health plans (another HIPAA compliance item but for 2015). Hopefully HHS will exempt self-funded health plans that do not engage directly in covered transactions from the certification in response to comments submitted to the proposed regulations published earlier this year. If this turns out not to be the case, a plan sponsor could set itself up for multiple testing and certification requirements if each plan has its own HPID.

Plan sponsors should note that accessing the HPOES module requires an individual to first register for an account under the CMS Enterprise Portal, which at this time requires the registrant to enter his or her Social Security number. After establishing an account, your next step is to log-in and request an application for access to HIOS. Unfortunately, the only user category available is for a HIOS issuer, a category not applicable to self-funded employer sponsored health plans.

Perhaps, CMS programmers are simply in the process of updating the portal and its modules to accommodate employer-sponsored health plans. Just in case they are (or will at some time in the near future), plan sponsors may wish to wait a bit longer before filing for an HPID.

---

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be "Attorney Advertising" under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP's principal office and Kathrine Dixon ([kathrine.dixon@bclplaw.com](mailto:kathrine.dixon@bclplaw.com)) as the responsible attorney.