JULY 21, 2016

Significantly More Information to Be Collected Under the Proposed Form 5500

Extensive changes to the annual information return for employee benefit plans are being proposed and can be found here. If adopted, the changes would be effective for plan years beginning on or after January 1, 2019. The revisions affecting pension plans, and details regarding changes to Schedules H and I that affect funded plans (such as those with VEBAs), are not addressed here. With respect to group health plans, the main changes would include:

- Eliminating the exemption for unfunded welfare plans with under 100 participants
  - Small fully-insured plans would have to file a return, but would be exempt from many of the questions, particularly in Schedule J
- Expanded use of Schedule C for certain small plans
- Adding a new Schedule J which requires information relating to:
  - Plan design, such as the categories of benefits provided, whether the plan is a HDHP or includes an HRA or FSA, whether the plan is grandfathered
  - Employee and employer contributions received
  - Enrollment information, including participants and dependents
  - Number of individuals offered COBRA and how many elected COBRA
  - Pre-and post-service claims data, including the number of benefit claims submitted, claims approved, claims denied, number of appeals
  - Compliance questions, such as whether the SPD and SBCs are in compliance, whether coverage is provided in compliance with applicable federal laws and DOL regulations, including HIPAA, GINA, MHPAEA and the Affordable Care Act (among others)
  - Rebates or refunds received, the type of service provider that provided the rebate or refund (such as TPA or PBM), and how the rebates or refunds were used
  - Identification of service providers, such as TPA, mental health benefits manager, PBM, IRO, wellness program manager
  - Stop-loss information, including name of insurance carrier, total premium, attachment point, claim limit
  - Whether any approved claims were not paid within one month of approval

Comments have also been requested on a proposal to collect “more robust data on claims adjudication

practices and policies," such as the dollar amount of claims denied, the denial code and whether the claim was a medical/surgical claim or mental health/substance abuse claim.

Given the extent of the changes, plans and service providers will need some time to determine how best to collect the data requested. It is also a good time for employers to consider undergoing a compliance audit to ensure that they can attest to compliance with the applicable federal laws.