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Significant Changes for Appeal Rules and EOBs

Previously, on July 23, 2010, DOL, HHS and Treasury issued interim final rules regarding the claim and appeal requirements under the Affordable Care Act. These new requirements will apply to all non-grandfathered plans beginning January 1, 2011 (for calendar year plans). Yesterday, DOL updated the rules by releasing two additional pieces of guidance - new Federal external appeal rules for self-insured plans and model notices for all plans. The Federal external appeal rules are contained in Technical Release 2010-01 and require self-insured plans to follow a new mandatory external appeal process, once participants complete the internal claim and appeal process. DOL also issued three model notices for adverse determinations of internal claims, internal appeals and external appeals. These notices are commonly referred to as Explanations of Benefits (or EOBs). Based on the claim and appeal rules, as well as the new guidance released yesterday, it is clear that significant changes will be needed with respect to the claims and appeals process for non-grandfathered plans. Plan sponsors will need to make certain their TPAs and other claim fiduciaries can accommodate the new external appeal and notice requirements. The DOL Technical Release can be found here: http://www.dol.gov/ebsa/pdf/ACATechnicalRelease2010-01.pdf