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DOL Regulatory Update

DOL recently released its 2012 regulatory agenda, with a few interesting items emerging. The agenda indicates that DOL will propose updates to the internal claim and appeal procedures for plans not covered by the Affordable Care Act (e.g., stand-alone dental and vision, disability and retirement plans). These regulations were last updated in 2001. I first heard of these proposed updates during the JCEB health and welfare meeting that I co-chaired a few months ago. At that time, DOL indicated that it was examining whether any of the enhancements that apply to the internal claims and appeals procedures under the Affordable Care Act, should also be applied across the board to all ERISA plans. The agenda indicates a projected release date of June 2012 for the proposed regulations.

The other interesting time from the agenda is the lack of discussion regarding the use of electronic media to distribute SPDs, SMMs and other required ERISA documentation. DOL asked for comments last year on this issue, and a number of practitioners and benefit groups, including the Employers Council on Flexible Compensation (ECFC) and myself, submitted thorough comments on how DOL could revise the rules. Revision of these rules would not only improve participant communications, but at the same time save employers and plan sponsors administrative costs. Last year, DOL indicated that updated guidance may be released by the end of last year, but no guidance has yet been released.

http://www.dol.gov/asp/regs/agenda.htm