Kilpatrick

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IROs - Relief or Confusion?

Late Tuesday, DOL released FAQs regarding various miscellaneous ACA issues. DOL also released additional guidance on the claims and appeals procedures in Technical Release 2010-02. THe FAQs can be seen here:

http://www.dol.gov/ebsa/faqs/faq-aca.html

The FAQs are a strange aggregation of items. One of the FAQs states that with respect to IRO contracts that the earlier DOL guidance never required a contract between a plan and an IRO. This is in direct contradiction with Technical Release 2010-01 which specifically states that a contract between a plan and an IRO must contain specific language as set forth in the release. If a contract is not required, why would you need the specific language in the contract? I think this contradiction is due to the fact that DOL has realized that it has set forth administrative requirements that not even the most diligent plan sponsor can satisfy by the end of 2010. In any event, it now appears that contracts can be entered into with a TPA who can handle the IRO items. However, whether plan sponsors deal with IROs directly or whether plan sponsors have their TPAs work with the IROs, plan sponsors will need to enter into a contract with the TPA or the IRO and that contract will need to include the items listed in Technical Release 2010-01.