APRIL 9, 2014

Provider Nondiscrimination

Section 2706 of the Public Health Service Act (as amended by the ACA) provides that a group health plan shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable state law. This provision was effective for 2014 and applies to non-grandfathered group health plans. In FAQ guidance issued by the Agencies last year, the Agencies took the position that this provision was "self-executing" and that they would not issue any guidance on this requirement. Since that time, many group health plans have ignored this requirement, feeling that it was really an issue for their third party administrators who are responsible for maintaining the networks and handling provider issues. However, in a curious turn of events, the Agencies are now asking for public comments on this issue. Typically, the Agencies do not request information from the public unless they plan on issuing detailed guidance in the near future. Interested parties must submit comments by June 10, 2014. A link to the request is below.

Link to RFI