
Final Regulations Issued on Excepted Benefits

By Kristi R. Gauthier / Oct 22, 2014

"Excepted benefits" are exempt from various group health plan requirements under the Patient Protection and Affordable Care Act ("PPACA") and the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"). The U.S. Departments of Treasury, Labor and Health and Human Services have issued final regulations which provide guidance about when certain dental, vision and long-term care and Employee Assistance Program ("EAP") benefits are considered excepted benefits. The final regulations do not address issues related to "limited wraparound coverage" which was a source of confusion and criticism under the proposed regulations.

Limited Scope Dental, Vision and Long-Term Care

The final rules provide that limited scope dental, vision and long-term care benefits are considered "excepted benefits" if they are:

- Provided under a separate insurance policy; or
- Not otherwise an integral part of the group health plan.

Consistent with the proposed rules, the final regulations confirm that participants need not pay an additional premium or contribution amount in order for these limited-scope benefits to be considered "excepted benefits."

The final rules also provide that benefits will be considered "not otherwise an integral part of a group health plan" if:

- Participants can opt-out of coverage; or
- The claims for the benefits are administered under a separate contract from claims administration for any other benefit under the plan.

EAPs

The final rules also affirm that EAPs can qualify as excepted benefits if they meet the same four criteria set forth in the proposed regulations:

- The EAP does not provide significant benefits in the nature of medical care;
- EAP benefits are not coordinated with benefits under another group health plan;
- There are no employee premiums or contributions; and
- There is no cost-sharing under the EAP.

Wraparound Coverage

The proposed rules also addressed a category of limited purpose "wraparound coverage" that could be offered to employees who purchase coverage in the individual marketplace because premiums for employer provided coverage were unaffordable under PPACA standards. Presumably this wraparound coverage would provide items such as extra benefits, broader networks and cost-sharing reductions. The final rules indicate that additional guidance will be published at a later date regarding limited wraparound coverage based on the number of comments received on this issue.

You can find a copy of the final regulations [here](#).

If you have any questions about the subject matter of this e-alert or about health care reform in general, please contact Kristi Gauthier at kgauthier@clarkhill.com or (480) 684-1300; Nancy Farnam at nfamam@clarkhill.com or (248) 530-6333; Ed Hammond at ehammond@clarkhill.com or (248) 988-1821; or Doug Ellis at dellis@clarkhill.com or (412) 394-2367 or a member of our Labor and Employment Practice group.