

## Health Care Reform – Extension of Non-Enforcement Period Relating to Internal Claims and Appeals, and External Review Processes

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On July 23, 2010, the Department of Labor, the Department of Treasury and the Department of Health & Human Services (the "Agencies") issued interim final regulations implementing the new claims and appeal requirements (the "New Claims and Appeal Regulations") of the Patient Protection and Affordable Care Act (the "ACA"). On September 20, 2010, the Agencies issued Technical Release 2010-02 ("TR 2010-02"), providing a grace period until July 1, 2011 for enforcement of certain provisions of the New Claims and Appeal Regulations (the "Initial Grace Period"). As discussed below, the Agencies, through the March 18, 2011 distribution of Technical Release No. 2011-01 ("TR 2011 01"), have extended and modified the Initial Grace Period. The additional extension provides the Agencies time to amend the New Claims and Appeal Regulations in response to comments they have received.

Specifically, TR 2011-01 extends the Initial Grace Period until plan years beginning on or after January 1, 2012, for the following provisions of the New Claims and Appeal Regulations:

- **Urgent Care.** The plan or issuer must notify a claimant with an urgent care claim as soon as possible, but not later than 24 hours (currently 72 hours) after the receipt of the claim.
- **Form of Notices.** Notices to participants must be culturally and linguistically appropriate.
- **Failure to Adhere to Internal Claims and Appeals Process.** If a plan or issuer does not strictly adhere to the requirements in the New Claim and Appeal Regulations, a claimant may initiate an external review and pursue any remedies available under applicable law.
- **Requirement to Disclose Diagnosis Codes and Treatment Codes.** Plans and issuers are required to provide diagnosis codes, treatment codes, and their corresponding



meanings, as part of the claim denial. However, during the enforcement grace period, TR 2011-01 requires a plan or insurer to provide this information upon request.

TR 2011-01 also modifies the Initial Grace Period for the additional requirements imposed by the New Claims and Appeal Regulations on claim denial notices. Under TR 2010-02, the enforcement deadline for these additional notice requirements was extended until July 1, 2011. TR 2011-01 provides that the enforcement deadline for these requirements will now be the first day of the plan year beginning on or after July 1, 2011.

While we recommend that non-grandfathered group health-plan sponsors continue to work toward implementing the New Claims and Appeal Regulations, these plan sponsors should be aware that most likely there will be changes to, and additional guidance regarding, the provisions identified above. Please contact one of the individuals listed below, or the Reed Smith attorney with whom you regularly work, to discuss the implications of the New Claim and Appeal Regulations under the ACA and th enforcement timeline.

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