CLIENT ALERT

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MEDICAL LOSS REBATE....

Carriers are starting to send out the Medical Loss Rebate Checks

Under the MLR provision, health insurers must spend a minimum percentage of premium dollars on health care claims and quality improvements in each of three markets, Individual, Small Group and Large Group. For the purposes of this Client Alert, we will only address the small and large group market, not the individual market. When the target percentage is not reached, the insurer must return excess premium dollars to the policyholder in the form of rebates. <u>The MLR requirements do not apply to self-insured plans.</u>

Medical Loss Ratio (MLR) is the percent of premiums an insurance company spends on claims and expenses that improve health care quality. The health care reform law requires insurance companies to pay annual rebates if the MLR for groups of health insurance policies issued in a state is less than 85 percent for large employer group policies and 80 percent for most small employer group policies and individual policies.

Calculation of the MLR Rebate

The Medical Loss Ratio is the Health Care Claims plus "Quality Improvement expenses" divided by Premiums less Taxes, Licensing & Regulatory Fees.

Quality Improvement Expenses include health improvement activities that lead to measurable improvements in patient outcomes or safety, prevention of hospital readmissions and wellness promotion, as well as is provider credentialing.

Determination of the Rebate

<u>The claim specific data for your policy with an insurer does not play any part in the determination as to whether or not your company receives a rebate.</u> Rebates are determined on a state-by-state basis based on all the claims and premiums for the insurer for the size market you are in. You will only receive a rebate if claims for all policies similar to your size in your state for the previous calendar year were lower than the required MLR percent.

If you receive a Rebate Check, your insurer has:

- Provided you with a notice of the rebate and check
- Sent your employees a letter regarding the rebate.

The employer/policyholder's responsibility

How rebates are treated is dependent on the type of employer. Requirements vary by the type of plan sponsor (i.e. private employers, state and local government plans or church plans), the premium contribution split between employee and employer and whether employee contributions are made pre or post-tax. In most cases, the employer will be obligated to use some or the entire rebate for the benefit of enrollees. If your group health plan is not a governmental plan or a church plan, it likely is subject to the Federal Employee Retirement Income Security Act of 1974 (ERISA). Under ERISA, the employer or the administrator of the group health plan may have fiduciary responsibilities regarding use of the Medical Loss Ratio rebates. Some or the entire rebate may be an asset of the plan, which must be used for the benefit of the employees covered by the policy.

Taxation of Rebate distributions to employees

In general, if contributions are made subject to a Section 125 plan, then rebate distributions will be taxable to the enrollee

Further guidance on distributing the employee portion of the rebate check is forthcoming. In the meantime, if you have any questions, please feel free to contact us.

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