WORKSHOP:
Hot Topics in Administration

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Hot Topics Today

- Communicating with participants
- Missing participants
- Dependent audits
- ACA audits
- HI PAA audits
- Allocation of shared expenses
- Social media policies
Communication With Participants

• Better way to mail?!

• Things to consider
  – Methods (mail, e-mail, text, online, mobile, meetings, posters, newsletters, social media)
  – Legal requirements
  – Disclosure vs. education
  – Tracking what was sent to who
Missing Participants

• Why do we have to go looking? What the DOL and IRS say
• Acceptable search methods
  – Certified mail, related plan sources, beneficiaries, Internet (obit.com, ancestry.com) +
• Practical considerations
  – Cost and privacy
  – Regular address searches
• PBGC Missing Participant Program
• 5500 and participants vested terminated participants > 70.5
Dependent Audit

• Why do it?

• Considerations
  – Frequency
  – Outsource?
  – Type
  – What is “proof”?
  – Consequences for non-compliant participants
  – Cost
HIPAA Compliance Audits

• Do you **written** policies and procedures that address HIPAA standards and vulnerabilities?
• Are you performing regular risk assessments? Are those assessments being documented?
• Do you have an incident response plan in case there is a breach of PHI?
• How are you addressing data security? Does it cover BYOD practices, mobile devices and storage media?
• Are your business associates on top of their requirements?
• Are members receiving Notices of Privacy Practices? Is it available on your website?
• Do we have a training program in place that properly informs new staff members and periodically refreshes existing workers on HIPAA compliance?
DOL looking for information *and documentation* concerning particular aspects of the PPACA, including but not limited to:

- Plan’s grandfather status,
- Coverage for adult children,
- Lifetime and annual limits
- Claims and appeals procedures
- Design of wellness programs offered in connection with group health plans
- Rescissions
- Preexisting condition limitation
- Provision of the summary of benefits and coverage (SBC)
- Patient protections
- Preventive services

DOL will also be looking for compliance with the other long standing mandates for group health plans—ERISA, HIPAA, COBRA and others laws.
Allocation of Shared Expenses

- Have policy that clearly outlines expense allocations
  - Policy should be detailed to ensure any related entity (Trust) is named to be party to such an allocation

- Establish those expenses that are “shared” and appropriate method of calculating amounts to charge each trust fund
  - Make best effort to limit those items that are invoiced on “global” trust basis

- Different methods of calculating expense split
  - Assets based
  - Time and material
  - Liability based (fiduciary policy, general liability policy)

- Policy Adherence a MUST
  - Ensure the adherence to policy is consistent as deviation can be considered “Loan” to “Related Party” and considered a prohibitive transaction
Social Media Policy

- Social media is here to stay and growing
  - Policy should be adapted/revised as media changes

- Create a clear definition of “social media”
  - Loosely define to allow for adapting but narrow definition of purpose of policy

- All inclusive policy—Nobody left out
  - Policy terms could differ between; employee, employer, trustee, participant, etc.
  - Focus on confidentiality

- Policy consistent with others policies
  - Can be crafted with confidentiality policy
  - Included in employee handbook/employment agreement
Procedures for Locating a Missing Participant or Beneficiary
Laborers’ District Council Construction Industry Pension Fund
Updated June 2016

In order to decrease the number of lost and missing participants and beneficiaries, Fund staff should always update an individual's file when you receive new or updated address information. Fund staff should also retain previous contact information in the file.

For all telephone inquiries by participants, the Fund verifies the date of birth and address of the participant thereby updating contact information for that participant.

In addition, all outgoing correspondence from the Fund to a participant or beneficiary should be imprinted with “Address Service Requested”. This will ensure the following:

- If the recipient moves, in the first 12 months after the recipient has moved, the mail will be forwarded and USPS will provide the Fund with the updated address.
- In months 13-18 after the recipient has moved, USPS will return the mail to the Fund with the updated address.
- After 18 months, USPS will return the mail to the Fund with the reason that it could not be delivered.

If the Fund attempts to contact a participant or beneficiary, and receives no response from participant or beneficiary within one month, or if the Fund receives a returned piece of correspondence without an updated address, the participant or beneficiary is deemed missing and the following procedures should be followed:

- If the Fund received no response to previous correspondence, but has no reason to believe that the address is no longer up-to-date, send a second letter, using certified mail, to the last address on file.
- If such contact information is available, attempt to contact individual through electronic means or a phone call.
- Contact the most recent employer on record and request updated contact information.
- Send a letter, using certified mail, to any designated beneficiary of the participant.
- Conduct an electronic search using free electronic resources, including an internet search engine and a public record database, if available.
- Conduct a search using LexisNexis Accurint.

If the procedures above do not result in location of the participant or beneficiary, the Fund staff should present the issue to the Plan Administrator, who may, depending on the facts and circumstances, instruct you to utilize additional search procedures.
Be sure to include any returned mail and other evidence of your search, including this checklist, for the missing participant or beneficiary in the individual’s file.
ATTACHMENT

1. Plan document.

2. Summary Plan Description (SPD), including any changes in Plan benefits and entitlement to benefits.


4. All contracts with insurance companies for the provision of health benefits.

5. If self-insured, all contracts for claims processing, administrative services, and reinsurance.

6. Documents which describe the responsibilities of both the employer and employees with respect to the payment of the costs associated with the purchase and maintenance of health and welfare benefits.

7. In accordance with the Health Insurance Portability and Accountability Act of 1996, please provide the following records:
   a. A copy of the Plan’s rules for eligibility to enroll under the terms of the Plan (including continued eligibility).
   b. A sample of the certification provided to those employees who have lost health care coverage since January 1, 2011 or to be provided to those who may lose health care coverage under this plan in the future, which certifies creditable coverage earned under this plan;
   c. A copy of the record or log of all Certificates of Creditable Coverage for individuals who lost coverage under the Plan or requested certificates;
   d. A copy of the written procedure for individuals to request and receive certificates;
   e. A sample general notice of preexisting condition informing individuals of the exclusion period, the terms of the exclusion period, and the right of individuals to demonstrate creditable coverage (and any applicable waiting or affiliation periods) to reduce the preexisting condition exclusion period, or proof that the plan does not impose a preexisting condition exclusion;
   f. Copies of individual notices of preexisting condition exclusion issued to certain individuals per the regulations (including any lists or logs an administrator may keep of issued notices), or proof that the Plan does not impose a preexisting condition exclusion;
g. A copy of the necessary criteria for an individual without a certificate of creditable coverage to demonstrate creditable coverage by alternative means;

h. Records of claims denied due to the imposition of the preexisting condition exclusion (as well as the Plan's determination and reconsideration of creditable coverage, if applicable), or proof that the Plan does not impose a preexisting condition exclusion;

i. A copy of the written procedures that provide special enrollment rights to individuals who lose other coverage and to individuals who acquire a new dependent, if they request enrollment within 30 days of the loss of coverage, marriage, birth, adoption, or placement for adoption, including any lists or logs an administrator may keep of issued notices; and

j. A copy of the written appeal procedures established by the Plan.

8. A copy of the Plan's rules regarding coverage of medical/surgical and mental health benefits, including information as to any aggregate lifetime dollar limits and annual dollar limits.

9. The Plan's Newborns' Act notice (this should appear in the plan's SPD), including lists or logs of notices an administrator may keep of issued notices.

10. A copy of the Plan's rules regarding pre-authorization for a hospital length of stay in connection with childbirth.

11. A sample of the written description of benefits mandated by WHCRA required to be provided to participants and beneficiaries upon enrollment.

12. A sample of the written description of benefits mandated by WHCRA required to be provided to participants and beneficiaries annually.

13. Materials describing any wellness programs or disease management programs offered by the plan. If the program offers a reward based on an individual’s ability to meet a standard related to a health factor, the plan should also include its wellness program disclosure statement regarding the availability of a reasonable alternative.

14. If the Plan is claiming or has claimed grandfathered health plan status within the meaning of section 1251 of the Affordable Care Act, please provide the following records:

   a. A copy of the grandfathered health plan status disclosure statement that was required to be included in plan materials provided to participants and beneficiaries describing the benefits provided under the Plan.

   b. Records documenting the terms of the Plan in effect on March 23, 2010 and any other documents necessary to verify, explain or clarify status as a
grandfathered health plan. This may include documentation relating to the terms of cost sharing (fixed and percentage), the contribution rate of the employer or employee organization towards the cost of any tier of coverage, annual and lifetime limits on benefits, and if applicable, any contract with a health insurance issuer, which were in effect on March 23, 2010.

15. Regardless of whether the Plan is claiming grandfathered status, please provide the following records in accordance with section 715 of ERISA as added by the Affordable Care Act:

   a. In the case of a plan that provides dependent coverage, please provide a sample of the written notice describing enrollment opportunities relating to dependent coverage of children to age 26.

   b. If the Plan has rescinded any participant’s or beneficiary’s coverage, supply a list of participants or beneficiaries whose coverage has been rescinded, the reason for the rescission, and a copy of the written notice of rescission that was provided 30 days in advance of any rescission of coverage.

   c. If the Plan imposes a lifetime limit or has imposed a lifetime limit at any point since September 23, 2010, please provide documents showing the limits applicable for each plan year on or after September 23, 2010.

      Please provide a sample of any notice sent to participants or beneficiaries stating that the lifetime limit on the dollar value of all benefits no longer applies and that the individual, if covered, is once again eligible for benefits under the plan.

   d. If the Plan imposes an annual limit or has imposed an annual limit at any point since September 23, 2010, please provide documents showing the limits applicable for each plan year on or after September 23, 2010.

16. If the Plan is NOT claiming grandfathered health plan status under section 1251 of the Affordable Care Act, please also provide the following records:

   a. A copy of the choice of provider notice informing participants of the right to designate any participating primary care provider, physician specializing in pediatrics in the case of a child, or health care professional specializing in obstetric or gynecology in the case of women, and a list of participants who received the disclosure notice.

   b. If the Plan provides any benefits with respect to emergency services in an emergency department of a hospital, please provide copies of documents relating to such emergency services for each plan year on or after

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September 23, 2010.

c. Copies of documents relating to the provision of preventive services for each plan year on or after September 23, 2010.

d. Copy of the Plan's Internal Claim and Appeals and External Review Processes.

e. Copies of a notice of adverse benefit determination, notice of final internal adverse determination notice, and notice of final external review decision.

f. If applicable, any contract or agreement with any independent review organization or third party administrator providing external review.

17. Summary Annual Report for the past three years.

18. Plan Trust Statements from January 1, 2011 to the current date.
SOCIAL MEDIA POLICY

Social media includes all forms of public, web-based communications and expression that brings people together by making it easier to publish content to many individuals. Social media has become a powerful tool that can be used to exchange ideas, collaborate and learn. If used responsibly, social media interactions can be a positive experience for both content creators and readers. The Social Media Policy applies if you are authorized to represent the ___________ (“Fund”) on social media platforms or if you choose to make references to the Fund, its affiliates, trustees, administrators, directors or officers when you are using social media in a personal capacity. In order to post on external social media sites for work purposes, you will need prior approval from the ______________ of the Fund.

While your free time is generally not subject to any restriction by the Fund, the Fund urges all employees not to post information regarding the Fund, their jobs, or other employees which could lead to morale issues in the workplace or detrimentally affect the Fund’s business. This can be accomplished by always thinking before you post, being civil to others and their opinions, and not posting personal information about others unless you have received their permission. You are personally responsible for the content you publish on blogs, wikis, or any other form of social media. Be mindful that what you publish will be public for a long time. Be also mindful that if the Fund receives a complaint from an employee about information you have posted about that employee, the Fund may need to investigate that complaint to insure that there has been no violation of any harassment policy or other Fund policy. In the event there is such a complaint, you will be expected to cooperate in any investigation of that complaint, including providing access to the posts at issue. **If you are unsure whether certain content is appropriate to share online, then don’t post it.**

Do not engage in any conduct on-line that would not be acceptable in your workplace or that is unlawful. For example, do not make derogatory remarks, bully, intimidate, harass other users, use insults or post content that is hateful, slanderous, threatening, discriminating or pornographic.

The Fund will not tolerate discrimination, including age, sex, race, color, religion, ethnicity, sexual orientation, gender identity, national origin, citizenship, disability or marital status or any other legally recognized protected basis under federal, state, or local laws, regulations or ordinance.
Be careful what you share. Do not disclose proprietary, financial, marketing, strategic or other confidential business information belonging to your employer that is clearly defined and does not relate to terms and conditions of employment.

A violation of this policy may result in your being disciplined. Discipline may include termination of your employment.
Key Takeaways

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- Find out if you are doing regular address searches?
- What steps are being taken to find missing participants?
- DOL audits are unavoidable—keep good records and perform periodic compliance reviews.

Website Resources
https://blog.ifebp.org/index.php/hipaa-phase-2-audits-include-business-associates
2017 Educational Programs
Administration

63rd Annual Employee Benefits Conference
October 22-25, 2017
Las Vegas, Nevada
www.ifebp.org/usannual

Trustees and Administrators Institutes
February 20-22, 2017
Lake Buena Vista (Orlando), Florida
June 26-28, 2017
San Diego, California
www.ifebp.org/trusteesadministrators

Washington Legislative Update
May 22-23, 2017
Washington, D.C.
www.ifebp.org/washington

Essentials of Multiemployer Trust Fund Administration
June 5-9, 2017
Brookfield (Milwaukee), Wisconsin
www.ifebp.org/essentialsme

Fraud Prevention Institute for Employee Benefit Plans
July 17-18, 2017
Chicago, Illinois
www.ifebp.org/fraudprevention

Related Reading
Visit one of the on-site Bookstore locations or see
www.ifebp.org/bookstore for more books.

Employee Benefits Glossary, 13th Edition
Item #7570
www.ifebp.org/glossary