FAQS ABOUT AFFORDABLE CARE ACT IMPLEMENTATION (PART XXVIII)

August 11, 2015

Set out below is an additional Frequently Asked Question (FAQ) regarding implementation of the Affordable Care Act. This FAQ has been prepared jointly by the Departments of Labor (DOL), Health and Human Services (HHS), and the Treasury (collectively, the Departments). Like previously issued FAQs (available at www.dol.gov/ebsa/healthreform and www.cms.gov/cciio/resources/fact-sheets-and-faqs/index.html), this FAQ answers questions from stakeholders to help people understand the Affordable Care Act and benefit from it, as intended.

Future Tri-Department Transparency Reporting Rulemaking for Non-QHP Coverage

On August 11, 2015, HHS issued a proposed information collection for public comment in connection with the transparency provisions of section 1311(e)(3) of the Affordable Care Act, consistent with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (PRA). The proposed data collection would collect certain information from Qualified Health Plan (QHP) issuers in Federally-facilitated Exchanges and State-based Exchanges that rely on the federal IT platform HealthCare.gov.

Consistent with the requirements of Public Health Service Act (PHS Act) section 2715A,[1] the proposal explained that other reporting requirements would be proposed at a later time, through a separate rulemaking to be conducted by the Departments with respect to non-Exchange coverage, including health insurance issuers offering group and individual health insurance coverage (non-QHP issuers) and non-grandfathered group health plans (including large group and self-insured health plans). The proposal indicated that these requirements could differ from those applicable to QHP issuers in Federally-facilitated Exchanges and State-based Exchanges that rely on the HealthCare.gov platform.

Q: How do the Departments intend to propose transparency reporting for non-QHP issuers and non-grandfathered group health plans?

The Departments intend to propose transparency reporting for non-QHP issuers and non-grandfathered group health plans in the future. The proposed reporting requirements may differ from those prescribed in the August 11, 2015 HHS proposal under section 1311(e)(3) of the Affordable Care Act, and will take into account differences in markets, reporting requirements already in existence for non-QHPs (including group health plans), and other relevant factors. The Departments also intend to streamline reporting under multiple reporting provisions and reduce unnecessary duplication. The Departments intend to implement any transparency reporting requirements applicable to non-QHP issuers and non-grandfathered group health plans only after reasonable notice and comment, and after giving those issuers and plans sufficient time, following the publication of final rules, to come into compliance with those requirements.

[1] PHS Act section 2715A also is incorporated into section 715(a)(1) of the Employee Retirement Income Security Act and section 9815(a)(1) of the Internal Revenue Code. Accordingly, the Departments have concurrent jurisdiction over the implementation of PHS Act section 2715A.