

# Legislative Brief

## HIPAA - HEALTH PLAN IDENTIFIERS (HPIDs)

Oct. 17, 2014

### NEW FAQs AND QUICK REFERENCE GUIDE FOR HPIDs

CMS has issued [FAQs](#) and a [quick reference guide](#) explaining the requirement and the process for health plans to obtain health plan identifiers (HPIDs). As background, the Affordable Care Act added the HPID requirement.

Under final regulations (see our [article](#)), HPIDs are mandatory for **controlling health plans (CHPs)**, which generally are health plans that control their own business activities or are controlled by an entity that is not a health plan; and HPIDs are optional for **sub-health plans (SHPs)**, which generally are health plans whose business activities are directed by a CHP.

#### FAQs PROVIDE CLARIFICATION REGARDING WHO MUST OBTAIN A HEALTH PLAN IDENTIFIER (HPID)

The FAQs provide the following clarifications:

- **Fully Insured Health Plans.** For fully insured health plans, the insurer is required to obtain an HPID (insurers are treated as offering CHPs based on their control over the health plans they insure; each discrete employer's fully-insured plan is a SHP). An employer may obtain an HPID for its fully-insured plan (SHP), but it is not required to do so (this FAQ confirms our previously provided guidance).
- **Self-Insured Health Plans.** A self-insured health plan must obtain an HPID if it (1) meets the definition of health plan (because it provides or pays the cost of medical care); and (2) is a CHP (as defined above). The FAQs note that a self-insured health plan meeting these conditions will need to obtain an HPID even if it does not conduct standard transactions (e.g., if a TPA conducts standard transactions on the plan's behalf). A self-insured health plan may authorize a TPA or other person to obtain an HPID on the health plan's behalf, but the HPID still belongs to the health plan. Although the FAQs do not specifically clarify when a self-insured health plan is considered a CHP, the FAQs state that many self-insured plans are CHPs and must obtain HPIDs.
- **TPAs.** As noted above, TPAs acting on behalf of self-insured plans are not required to obtain health plan identifiers. TPAs may obtain "other entity identifiers (OEIDs)" to identify themselves in HIPAA transactions, but the use of OEIDs is completely voluntary.
- **Health FSAs, HSAs, and HRAs.** Although Health FSAs and HSAs generally meet the definition of a health plan, the FAQs specifically exempt health FSAs and HSAs from having to obtain HPIDs, since they are "directed by the consumer." An HRA may be required to obtain an HPID if it is a CHP (as defined above), but the FAQs exempt HRAs from having to obtain HPIDs if they only reimburse deductibles and out-of-pocket costs.
- **Small Health Plans.** The FAQs include a reminder that CHPs must obtain HPIDs by November 5, 2014, but small CHPs (those reporting annual receipts of \$5 million or less to the IRS) have an additional year to comply (i.e., November 5, 2015).

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Oct. 13, 2014

### NEW FAQs AND APPLICATION CHEAT SHEET FOR HEALTH PLAN IDENTIFIERS

- **Measuring Annual Receipts.** Since most ERISA health plans do not report “annual receipts,” the FAQs provide the following alternative measures for annual receipts:
  - Fully insured health plans—Total premiums paid during the plan’s last full fiscal year;
  - Self-insured plans (both funded and unfunded) - Total amount paid for health care claims by the employer, plan sponsor, or benefit fund, on behalf of the plan during the plan’s last full fiscal year; and
  - Plans providing benefits through a mix of purchased insurance and self-insurance should combine these measures to determine their total annual receipts.
- **Authorized Person:** The FAQs permit a health plan to authorize an entity or individual to obtain an HPID on its behalf.

#### HEALTH PLAN IDENTIFIER QUICK REFERENCE GUIDE

The HPID quick reference guide explains the process for obtaining an HPID and provides step by step instructions. Users will need to go through the CMS Enterprise Portal to access the Health Insurance Oversight System (HIOS) and apply for the HPID using the Health Plan and Other Entity System (HPOES). Additional guidance regarding health plan identifiers, including a detailed user manual and webinars can be found at <http://www.cms.gov/Regulations-and-Guidance/HIPAA-Administrative-Simplification/Affordable-Care-Act/Health-Plan-Identifier.html>.

The health care reform law—the Affordable Care Act (ACA)—has many complex requirements for employers and health plans. Please contact Kapnick Insurance Group with any questions about how you can prepare for any of the health care reform requirements. This Kapnick Insurance Group Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal or tax advice. The information contained in this communication is intended to provide general information regarding health care reform and related topics, and is based on general information available at the time it was prepared. Readers should contact their tax and/or legal counsel for advice that is appropriate to their specific circumstances. This information cannot be used by any taxpayer to avoid tax penalties.

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