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Text of HHS OCR FAQs: HIPAA, COVID-19 Vaccination, and the Workplace

- 1) Does the HIPAA Privacy Rule prohibit businesses or individuals from asking whether their customers or clients have received a COVID-19 vaccine? No....
- 2) Does the HIPAA Privacy Rule prevent customers or clients of a business from disclosing whether they have received a COVID-19 vaccine? No....
- 3) Does the HIPAA Privacy Rule prohibit an employer from requiring a workforce member to disclose whether they have received a COVID-19 vaccine to the employer, clients, or other parties? No....
- 4) Does the HIPAA Privacy Rule prohibit a covered entity or business associate from requiring its workforce members to disclose to their employers or other parties whether the workforce members have received a COVID-19 vaccine? No....
- 5) Does the HIPAA Privacy Rule prohibit a doctor's office from disclosing an individual's protected health information (PHI), including whether they have received a COVID-19 vaccine, to the individual's employer or other parties? Generally, yes.

HHS Addresses HIPAA Privacy and COVID-19 Vaccinations in the Workplace - "HHS's **Q&As** build on fundamental distinctions under the Privacy Rule regarding the scope of who is a HIPAA CE or BA. And as HHS repeatedly emphasizes, the HIPAA Privacy Rule is but one of many federal or state laws that employers should consider regarding whether to require employees to obtain vaccines, disclosures of vaccination status, and related issues."

Banning Surprise Bills, Part 2: Good Faith Estimates, External Review, and More - "This post summarizes the parts of the **interim final rule** related to external review, providing good faith estimates to uninsured individuals, and the dispute resolution process for patients and providers. The good faith estimates and the patient/provider dispute resolution process are HHS-only rules and generally apply beginning on January 1, 2022."

Surprise Bills No More—So What Will Docs Get Paid? - (from a NAHU Compliance NOW article) - As we have previously shared, effective for plan years beginning on or after January 1, 2022, "surprise billing" is prohibited. This means that plan participants can only be billed in-network rates even when they go to out-of-network providers for "protected services." These protected services include emergency services, services provided at an in-network facility by an out-of-network provider, and air ambulance services.

Ban On 'Surprise' Medical Bills On Track For Jan. 1 Rollout - The Biden administration on Thursday put final touches on consumer protections against so-called "surprise" medical bills. The ban on charges that hit insured patients at some of life's most vulnerable moments is on track to take effect Jan. 1, officials said. Patients will no longer have to worry about getting a huge bill following a medical crisis if the closest hospital emergency room happened to have been outside their insurance plan's provider network. They'll also be protected from unexpected charges if an out-of-network clinician takes part in a surgery or procedure

conducted at an in-network hospital. In such situations, patients will be liable only for their in-network cost sharing amount.

DOL Fact Sheet: What You Need to Know About the Administration's Actions to Prevent Surprise Billing - "This rule provides additional consumer protections, including:

- A process that takes consumers out of the middle of a payment dispute between providers and health plans;
- Requirements for health care cost estimates for uninsured (or self-pay, meaning you have coverage but choose not to have your care billed to your health plan) individuals;
- A payment dispute resolution process for uninsured (or self-pay) individuals; and
- Expanded rights to external review ...

Along with the release of this second interim final rule, CMS launched new online information ... dedicated to the No Surprises Act, with general information about provisions to prevent surprise billing. Additional information will be posted on the website over the next several months to highlight different provisions as they become more relevant to stakeholders and interested consumers."

Providers Cry Foul Over New Surprise Billing Rule's Arbitration Process - "Providers took umbrage with a key direction the rule gave to the arbiter. The final rule states that when deciding between the amounts, the arbiter should pick whichever amount is closest to the qualified payment amount (QPA), which is an insurance plan's median contract rate for the same or similar service in a geographic area.... The rule means providers will have to prepare a game plan to show that their amount needs to be different from the QPA."

Leader of California's Muscular Obamacare Exchange to Step Down - Peter Lee helped create Covered California, which has been lauded as a national example among the Affordable Care Act's insurance marketplaces, and he fiercely opposed Republican efforts to repeal the federal health reform law.

Biden: Nearly 3M Get Health Coverage During COVID-19 Special Sign-Up Period - Nearly 3 million consumers took advantage of a special six-month period to sign up for subsidized health insurance coverage made more affordable by the COVID-19 relief law, President Joe Biden said Wednesday. He called that number encouraging and urged Congress to keep the trend going by extending the more generous financial assistance, currently available only through the end of next year. "That's 2.8 million families who will have more security, more breathing room, and more money in their pocket if an illness or accident hits home," Biden said in a statement. "Altogether, 12.2 million Americans are actively enrolled in coverage under the Affordable Care Act — an all-time high." That's an increase of about 20% since the end of last year.

Major Insurers Running Billions of Dollars Behind on Payments to Hospitals and Doctors - "Anthem Blue Cross, the country's second-biggest health insurance company, is behind on billions of dollars in payments owed to hospitals and doctors because of onerous new reimbursement rules, computer problems and mishandled claims ... Hospitals are also dealing with a spike in retroactive claims denials by UnitedHealthcare, the biggest health insurer, for emergency department care."

California's Reboot of Troubled Medi-Cal Puts Pressure on Health Plans The nine commercial insurers in Medi-Cal must reapply by submitting bids for new contracts. The state hopes the process will improve care for low-income residents and tighten accountability, something critics say has been missing.

Most Of \$9.2 Billion In Questionable Medicare Advantage Payments Went To 20 Insurers, Federal Investigators Say Medicare insurers drew \$9.2 billion in federal payments in one year through controversial billing practices, with 20 companies benefiting disproportionately and together accounting for more than half of the total, according to federal health investigators. The findings by the Office of Inspector General of the

Department of Health and Human Services are the latest sign of growing scrutiny of Medicare Advantage insurers, which offer private plans under the federal benefit program. The inspector general's report focuses on certain procedures used by insurers to document health conditions, which helps determine how much they are paid. The investigators said the findings raise concerns that insurers might be gaming the process to improperly boost federal payments.

[CMS Releases 2022 Premiums and Cost-Sharing Information for Medicare Advantage and Prescription Drug Plan](#) - "The average premium for Medicare Advantage plans will be lower in 2022 at \$19 per month, compared to \$21.22 in 2021, while projected enrollment continues to increase.... [T]he average 2022 premium for Part D coverage will be \$33 per month, compared to \$31.47 in 2021."

[Amid New Pricing Pressure, Lilly Cuts Cost Of Generic Insulin By Another 40%](#) - With drugmakers facing renewed calls to lower the cost of prescription drugs, Eli Lilly has taken preemptive action, dropping the cost of its generic insulin by 40%. Starting next year, Lilly's list price for Lispro Injection will be \$82.42 for an individual vial and \$159.12 for a five-pack of pens. The move prices Lispro 70% less than its branded counterpart, Humalog U-100, and returns the cost of insulin to 2008 levels, the company said.

[HHS Issues Proposed Rules Implementing the Individual Health Insurance Agent and Broker Fee Disclosure Requirement](#) - "This reporting requirement is a 'backward-looking' report that will disclose actual dollar amounts of compensation paid.... [It] includes payments to intermediaries like General Agents or Insurance Marketing Organizations even though HHS states that the Policyholder need not receive that information.... Although the reporting to HHS is made on an annual basis, the report to HHS breaks down agent and broker compensation information by month."

[No Surprises Act: Latest Proposed Regs Focus on Data Collection and Enforcement, and also Disclosure of Agent & Broker Compensation !](#) - "The proposed rule focuses on [1] the submission of information about air ambulance services by air ambulance providers, group health plans, insurers, and Federal Employee Health Benefits (FEHB) carriers; [2] the process that HHS will take to investigate and enforce violations of federal insurance law; and [3] implementation of a CAA provision that requires insurers to disclose the amount they pay in direct and indirect compensation to agents and brokers for enrollment in individual market coverage and short-term, limited duration insurance (STLDI)."

[2022 IRS Limits: What We Know So Far](#) - "The IRS recently decreased the affordability baseline from 9.83% in 2021 to 9.61% in 2022.... The IRS has also released 2022 HSA contribution limits, minimum annual HDHP deductibles, plan out-of-pockets maximums for HSA eligibility, and out-of-pocket maximums for ACA compliance."

[Comprehensive Comparison Chart for Reimbursement Health Accounts: FSA, HSA, and HRA \(PDF\)](#) - 2-page chart provides side-by-side comparison of multiple aspects of each type of account.

[Five ACA Items Employers Should Know Heading Into 2022](#) - "[1] No more good faith effort or extended due date to furnish forms to employees.... [2] Electronic reporting will soon be required.... [3] Affordability threshold in 2022 is decreasing to 9.61 percent from 9.83 percent.... [5] Full-time employees with a household income above 400 percent of the federal poverty line can trigger a section 4980H penalty in 2022.... [5] The 4980H penalties continue to increase."

[Federal Departments Delay Enforcement of Transparency Disclosure Requirements](#) - "HHS, DOL and Treasury recently issued FAQ guidance specifically to help plan sponsors understand their duties under the final Transparency in Coverage Rules issued under the ACA and similar provisions in the CAA. The FAQ also extend the deadlines by which plan sponsors must comply with the rules."

[Determining Full-Time Employee Status for Purposes of the ACA Employer Shared Responsibility Provisions \(PDF\)](#) - 23 pages. "The focus of this article is on determining employee status for purposes of the Employer Mandate penalty calculations, not on determining employee status for purposes of determining employer size."

[Time to Revisit Your ACA Affordability Strategy?](#) -"It may be time to reevaluate your strategy for setting affordable contributions under ACA rules, especially if, like most employers, you've been using the FPL Safe Harbor up until now. While it offers the significant advantage of allowing the contribution to be prospectively determined, other methods may allow for a higher employee contribution."