

References

Chapter 1

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- provide. Although a staff health care provider might submit a first report of injury to the workers' compensation program, there is no standard in place for this transaction.
4. HIPAA defines a group health plan as an ERISA welfare benefits plan "to the extent that the plan provides 'medical care' (as defined in PPHSA Section 2791(a)(2)) to employees or their dependents. . . ." Medical care is defined as "the diagnosis, cure, mitigation, treatment or prevention of disease, or amounts paid for the purpose of affecting any structure of the body." (1) U.S. Code §213 uses this same definition and has been interpreted to consider fitness centers as organizations that merely support good health and do not treat illnesses.
 5. Section 164.506(c)(5) permits covered entities that participate in an OCHA to share information for any health care operation activities of the OCHA.
 6. The preamble states that the OCHA provisions "define the arrangements between health plans and health insurance issuers or HMOs as OCHAs, which are permitted to share information for each other's health care operations. Such disclosures also may be made to a broker or agent that is a business associate of the health plan." *Federal Register*. August 14, 2003;68:53217.
 7. Section 164.501.
 8. ERISA Section 702 and U.S. Tax Code Section 9802. A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any factors related to health status in relation to the individual or a dependent of the individual—ERISA Section 702(a)(1). A group health plan or a health insurance issuer offering group health insurance coverage in connection with a group health plan may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution that is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any factor related to health status in relation to the individual or to an individual enrolled under the plan as a dependent of the individual—ERISA Section 702(b)(1).
 9. 26 CFR Section 54.9802-1(f)(2).
 10. HIPAA expressly states that the nondiscrimination rules do not require employers to provide any additional benefits and do not prevent employers from creating limits or restrictions on the "amount, level, extent or nature of the benefits or coverage for similarly situated individuals enrolled in the plan." ERISA Section 702(a)(2) and (b)(2).
 11. The nondiscrimination rules state that a plan amendment that limits benefits is not considered to be directed at any individual participants or beneficiaries if (1) it is applicable to all individuals in one or more groups of similarly situated individuals under the plan and (2) it becomes effective no sooner than the first day of the first plan year after the amendment is adopted. Labor Regulation §2590.702(b)(2)(i)(C); U.S. Code §54.9802-1T(b)(2)(i)(C).
 12. Americans with Disabilities Act of 1990, 42 U.S. Code §12112(a), (b).
 13. *EEOC Compliance Manual*, Chapter 3, ADA Issues §I.
 14. *Templet v Blue Cross/Blue Shield of Louisiana*, LEXIS 15605 (U.S. Dist. 2000).
 15. 42 U.S. Code §12201(c)(1).
 16. 42 U.S. Code §12201(c)(1); 42 U.S. Code §12201(c)(2), (3); See *Barnes v. The Benham Group, Inc.*, 22 F.Supp.2d 1013 (Minnesota 1998).
 17. 42 U.S. Code §(d)(4)(A).
 18. U.S. Equal Employment Opportunity Commission. Enforcement guidance: Disability-related inquiries and medical examinations of employees under the Americans with Disabilities Act (ADA). July 27, 2000. Available at: www.eeoc.gov/policy/docs/guidance-inquiries.html. Questionnaires about behavior, such as eating, physical activity, and sleeping habits, are not medical inquiries.
 19. id.
 20. U.S. Code §213(d).
 21. Earles, A.C. *Legal considerations for employer-sponsored health improvement and incentive programs*. Washington, D.C., National Business Group on Health; 2007.

Chapter 6

1. Health Insurance Portability and Accountability Act of 1996.
2. If an employer-sponsored health plan fails to comply with HIPAA, the employer ultimately will be liable for paying civil and criminal penalties. Moreover, employees may sue the employer in its capacity as plan administrator in the event the employer breaches its fiduciary duties under ERISA by using or sharing health information in a manner that violates the privacy rules.
3. Staff health care providers often provide only first aid treatment and education. Usually, they do not perform any of the standard transactions electronically. They do not submit claims or report health care encounters to any HIPAA-covered health plan. Nor do they inquire about claim status or request eligibility information from any HIPAA-covered health plan for purposes related to the health services they

Chapter 7

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Chapter 8