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Three Group Insurance Issues You May Have Missed

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In late 2021 and early 2022, three issues affecting group health insurance became law. To ensure you remain in compliance, we have summarized them below:

- **A New Group Health Plan Disclosure Notice in Illinois:** Effective August 27, 2021, the Consumer Coverage Disclosure Act (the “CCDA”) became law in Illinois. The CCDA requires all companies that provide group health insurance to employees in Illinois to provide all employees who are eligible for group health insurance coverage a written list of all covered benefits included in the company’s group health insurance plan in a format that easily compares the plan’s covered benefits with the essential health insurance benefits required of individual health insurance coverage regulated by the State of Illinois. The Illinois Department of Labor website includes a disclosure template. The required disclosure must be provided upon hire, annually thereafter, and upon request from an employee. Importantly, the new disclosure notice does not require a company’s group insurance plan to provide all the essential health insurance benefits listed. Instead, companies must provide the disclosure simply for comparison purposes. The CCDA is enforced by the Illinois Department of Labor via civil penalties. Although this is an employer notice requirement and not an insurance company notice requirement, companies with employees in Illinois should seek assistance from their insurance company, broker, or third-party administrator to develop the comparison.
- **Brokers and Consultants Must Disclose Direct and Indirect Compensation:** On December 30, 2021, the U.S. Department of Labor issued a temporary enforcement policy related to group health insurance plan brokers and consultants. In short, all brokers and consultants that provide services to an ERISA-covered group health plan who reasonably expect to receive \$1,000 or more in direct or indirect compensation in connection with providing such services must disclose their compensation in advance of the parties entering into the agreement. This new compensation disclosure requirement, which applies to all insured and self-insured group health plans regardless of size, is intended to provide plan fiduciaries with sufficient information to assess (1) the reasonableness of compensation to be received by their broker or consultant, and (2) any potential conflicts of interest that may exist because the broker or consultant is receiving indirect compensation from other sources other than the plan or the plan sponsor. The new compensation disclosure requirement applies to all contracts of agreement for services which are entered, extended, or renewed on or after December 27, 2021.

- **Over-the-Counter COVID-19 Tests Covered by Health Plans Without Attending Physician:** On January 10, 2022, the Departments of Labor, Health and Human Services and Treasury issued a Q&A clarifying that individuals who purchase over-the-counter COVID-19 home tests, without the test first being ordered by a health care provider, can seek reimbursement from their insurance plans. This new Q&A replaces guidance issued in June 2020, which required the self-tests or at-home tests to be ordered by an attending physician. As such, employees should submit claims for self-tests or at-home tests to the company's insurance carrier.

If you have any questions, please contact a member of the Employment, Labor and Benefits Practice Group.