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Group Health Plans and Health Insurance Issuers: Internal Claims and Appeals and External Review Processes under the Patient Protection and Affordable Care Act

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General Comment

1 -----

We request clarification that these interim final rules would apply to an employer offering (either directly or with the assistance of a third-party administrator) a stand-alone HRA or similar account based group health plan that does not offer insurance coverage.

2 -----

Should the interim final rules apply to an employer (either directly or with the assistance of a TPA) who offers employees an account-based group health plan, we challenge the notion that providing claims assistance in non-English would not be onerous.

Claims information is inherently PHI and sensitive. In the case of an employer who must comply, the HR staff person who deals with claims would need to have access to a translator (who had signed a HIPAA business associate agreement) or speak the non-English language since asking another employee to translate PHI raises HIPAA concerns. It would be disconcerting to non-English speaking employees to require them to relay sensitive PHI to an employee other than the HR staff person, which might include a peer or supervisor in many circumstances.

In the case of a TPA who provides administrative services to employers, the TPA would have to hire staff that speak a particular language prior to brining on a particular employer to ensure that the TPA's customer service staff can accommodate non-English speakers. This rule would require the TPA to either drop employers who have non-English speaking populations or to preclude the TPA from providing services to certain employers.