

**U.S. Department of Labor  
Office of Inspector General  
Office of Audit**

## **BRIEFLY...**

Highlights of Report Number 09-11-003-12-121, issued to the Assistant Secretary for Employee Benefits Security.

### **WHY READ THE REPORT**

The Patient Protection and Affordable Care Act (PPACA) was enacted on March 23, 2010, and amended by the Health Care and Education Reconciliation Act (HCERA) on March 30, 2010. As amended, PPACA is the most significant health care reform bill in decades. It expands health care coverage to an estimated 31 million uninsured Americans through a combination of cost controls, subsidies, and mandates. PPACA is estimated to cost \$848 billion over a 10-year period.

PPACA will affect nearly every element of our health care system including employers, both large and small. According to employee benefits industry sources, PPACA will have the most significant impact on employer-sponsored health plans since the enactment of the Employee Retirement Income Security Act of 1974 (ERISA) more than 30 years ago. PPACA would impose requirements on the type of health care coverage employers must offer including:

- (a) Covering most adult children up to age 26.
- (b) Elimination of lifetime limits and restrictive annual limits.
- (c) Elimination of pre-existing condition exclusions.
- (d) Required coverage of certain preventative services (e.g., immunizations and infant screenings).

The Employee Benefits Security Administration (EBSA) is responsible for oversight of health coverage provided by employers through the administration and enforcement of the civil and criminal provisions of Title I of ERISA and related criminal statutes. EBSA oversees approximately 2.6 million employer-sponsored health plans covering approximately 150 million participants and beneficiaries. This includes single employer plans, multi-employer plans and Multiple Employer Welfare Arrangements (MEWA)

EBSA, in conjunction with the Departments of Treasury (Treasury) and Health and Human Services (HHS), has been working to implement PPACA.

### **WHY OIG CONDUCTED THE AUDIT**

We conducted the audit to determine if EBSA has taken action to implement PPACA.

### **READ THE FULL REPORT**

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2011/09-11-003-12-121.pdf>

**September 2011**

### **FURTHER ACTION BY EBSA COULD HELP ENSURE PPACA IMPLEMENTATION AND COMPLIANCE**

#### **WHAT OIG FOUND**

EBSA has taken significant actions toward implementing PPACA requirements by issuing regulations, conducting research, and providing compliance assistance and outreach. However, further action by EBSA could help ensure PPACA implementation and compliance. Specifically, EBSA could work with Treasury and HHS to establish a public timeline for addressing the public comments received on interim-final PPACA regulations and issuing final regulations.

In addition, EBSA could better leverage enforcement resources to assist plans in complying with the new regulations. Including compliance with PPACA requirements in its health plan investigations could have resulted in identifying areas where plans, sponsors, and insurers needed technical assistance.

Furthermore, as required by PPACA, EBSA should provide HHS with the results of a survey of benefits typically covered by employers that is sufficiently broad to enable HHS to determine benefits provided under a typical employer plan. EBSA was unable to state that the report it provided HHS was broad enough to encompass all benefits EBSA considered to be typically covered by employers. Moreover, EBSA did not address all benefits HHS requested. Without this, HHS may not be able to ensure that State Insurance Exchanges offer the appropriate essential health benefits required by PPACA.

Lastly, EBSA should develop a regulation concerning MEWAs under PPACA Section 6604, regarding the applicability of State law as a means to combat fraud and abuse.

#### **WHAT OIG RECOMMENDED**

We made four recommendations to the Assistant Secretary for Employee Benefits Security:

1. Work with the Departments of HHS, Treasury, and the Office of Management and Budget to establish specific timetables to respond to public comments and issue final regulations;
2. Incorporate PPACA requirements immediately into the enforcement program to assist plans in complying with PPACA;
3. Provide HHS with the results of a survey of benefits typically covered by employers that is sufficiently broad to enable HHS to determine benefits provided under a typical employer plan; and
4. Proceed with rulemaking relative to PPACA section 6604.

The Assistant Secretary for Employee Benefits Security agreed with recommendations 1 and 4. The Assistant Secretary, however, did not fully agree to incorporate PPACA requirements into the enforcement program to help plans with compliance assistance or take further action to report the results of a survey conducted to determine benefits typically covered by employers.