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

BRIEFLY…

November 18, 2016

EBSA DID NOT HAVE THE ABILITY TO PROTECT THE ESTIMATED 79 MILLION PLAN PARTICIPANTS IN SELF-INSURED HEALTH PLANS FROM IMPROPER DENIALS OF HEALTH CLAIMS

WHY OIG CONDUCTED THE AUDIT

Improper denials of health benefit claims can have catastrophic effects on the health and financial security of plan participants and their families. The Employee Benefits Security Administration (EBSA) is charged with regulating all Employee Retirement Income Security Act (ERISA) self-insured health plans and is thus responsible for protecting the estimated 79 million participants in those plans against improper denials of health benefit claims. Because ERISA affords only limited legal remedies against improper denials of health benefit claims to EBSA and health plan participants, it is essential that claims be properly decided and appeals fairly adjudicated.

WHAT OIG DID

OIG conducted a performance audit to determine the following:

> Did EBSA have the ability to protect the estimated 79 million participants in self-insured health plans from improper claims denials?

READ THE FULL REPORT

To view the report, including the scope, methodologies, and full agency response, go to:
http://www.oig.dol.gov/public/reports/oa/2017/05-17-001-12-121.pdf

WHAT OIG FOUND

EBSA did not have the ability to protect the estimated 79 million participants in self-insured health plans from improper claims denials because EBSA lacked any primary knowledge of denials of health benefit claims in any of the plans under its oversight. In 1975, EBSA exempted health plans having fewer than 100 participants from reporting requirements because the agency did not want to create an undue administrative burden. As a result of this exemption, EBSA has collected no information about denials of health claims from self-insured health plans that cover about 79 million participants. Moreover, form 5500, EBSA's primary information collection tool, did not capture information on denials of health benefit claims. As a result, even the plans that were required to report to EBSA were not required to provide any information on their denials of health benefit claims.

Despite this lack of primary knowledge about denials of health benefit claims in self-insured health plans, EBSA has conducted only limited reviews of these self-insured plans for compliance with external review requirements, and it has yet to issue final guidance for independent review organizations (IRO) that decide appeals of denied claims.

WHAT OIG RECOMMENDED

We recommended the Assistant Secretary for Employee Benefits Security use the agency's existing authority to revisit and revise health plan reporting requirements, require aggregate claims data be reported for all reporting ERISA health and welfare benefit plans, use claims data to focus its health plan investigations, establish external review reporting requirements for IROs, and issue guidance to clarify the fiduciary status of IROs.

The Assistant Secretary for Employee Benefits Security generally agreed with our recommendations but disagreed that additional clarification regarding the fiduciary status of IROs was needed at this time.