

## ***HEALTH LAW ALERT***

***July 22, 2012***

### **Essential Health Benefits Reporting Requirements Adopted NCQA and URAC to Perform Accreditation for Exchanges**

Friday, the Department of Health and Human Services (HHS) published a final rule requiring certain insurers in each State to report administrative and descriptive data for purposes of determining what qualifies as essential health benefits in the State. Only the three insurers with the largest enrollment in a particular small group product in each State are required to provide the information. [Click here](#) for a list of the insurers (and relevant products) subject to the reporting requirement (see list arranged by State in alphabetical order, beginning on page 6). Data must be provided no later than September 4. The final rule also recognizes NCQA and URAC as accrediting entities for purposes of certifying that plans meet quality standards necessary to become Qualified Health Plans that may offer products through State Exchanges beginning in 2014. HHS's recognition is subject to the two organizations meeting certain conditions and is granted on an interim basis.

The final rule is published at 77 *Federal Register* 42658 ([click here](#)). The effective date of the rule is August 20, 2012 and reporting required under the Rule is due on or before September 4, 2012. [Click here](#) for my compilation of the HIPAA Administrative Simplification Rules incorporating the final rule (*see* first line under "Compiled Rules") (or see the "Resources" page at [tbixbylaw.com](http://tbixbylaw.com)).<sup>1</sup>

#### **Reporting Requirements**

The reporting requirements in the final rule are designed to collect information HHS requires for determining the "essential health benefits" that insurers will offer in each State's small group and individual markets beginning in 2014. Essential health benefits are to be based on a "typical employer plan." HHS has indicated it will permit each State to choose among four options to establish a benchmark for the essential health benefits that Qualified Health Plans will offer inside the State's Exchange as well as for benefits that plans will offer in the individual and small group markets outside the State's Exchange. One of the options a State may elect is "the largest plan by enrollment in any of the three largest small group insurance products in the State's small group market." If a State fails to choose one of the four options for a benchmark, the benchmark will automatically become the largest plan by enrollment in the single largest small group product in the State.

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<sup>1</sup> For those of you who have previously made paper copies of my Compiled Rules, you may replace pages 1-8 (the Table of Contents) and pages 145-188. (Only the page numbers are changed on pages 157-86 of the 5/16/2012 version.)

Under HHS’s terminology, a “product” is the package of services covered by an issuer, “which may have several cost-sharing options and riders as options.” A “plan,” on the other hand, “refers to the specific benefits and cost-sharing provisions available to an enrolled consumer.” Thus, for example, “multiple *plans* with different cost-sharing structures and rider options may derive from a single *product*” (emphasis added).

Under the final rule, the insurers in each State that offer the three largest “products” in the small group market (by enrollment) must provide additional information about the largest “plan” (by enrollment) that the insurer makes available within the product. The insurer is permitted to determine which plan it deems to have the highest enrollment. The information that these insurers must report includes administrative data necessary to identify the health plan that the insurer determines has the highest enrollment and data and descriptive information concerning:

- All benefits in the plan;
- Treatment limitations (*i.e.*, limits based on the frequency of treatment, days of coverage, or other similar limits on the scope and duration of treatment);
- Drug coverage; and
- Enrollment.<sup>2</sup>

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<sup>2</sup> HHS refers readers to a link for “additional information on the data HHS intends to collect with regard to treatment limitations, as well as a list of the [specific] data elements.” The link was not functional on July 22.