

Final HIPAA Nondiscrimination Regulations Affecting Health and Wellness Programs

*Learn Details At January 23, 2007 Health Plan Update Briefing
Participate In Person or By Telephone*

Employers sponsoring group health coverage, health insurers, and health plan administrators generally will be required to ensure their health plan eligibility and wellness practices and documentation are updated to comply with new final nondiscrimination regulations that take effect during 2007.

The new nondiscrimination regulations published in today's Federal Register address the conditions that group health plans must meet to comply with the nondiscrimination provisions of the Health Insurance Portability and Accountability Act (HIPAA). The final regulations are the latest of a series of new developments affecting the design and administration of health plans, health savings accounts, health reimbursement accounts, and health flexible spending account programs. Glast, Phillips & Murray, P.C. member Cynthia Marcotte Stamer, P.C. will brief clients and friends of the firm about the new final nondiscrimination regulations and other developments impacting employment based health programs during a **2007 Health Plan Update** scheduled on **January 23, 2007**. The briefing is scheduled to begin promptly at 12:00 p.m. Central Time, 1:00 p.m. Eastern, 11:00 a.m. Mountain Time, and 10:00 a.m. Pacific Time. Interested persons can participate in person in the Dallas offices of the firm or by telephone. To register for the program, complete and return the accompanying registration form.

FINAL HIPAA NONDISCRIMINATION RULES

HIPAA's nondiscrimination provisions generally prohibit group health plan or group health insurance issuer from denying an individual eligibility for benefits based on a health factor and from charging an individual a higher premium than a similarly situated individual based on a health factor. Health factors include: health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), and disability. These nondiscrimination rules frequently impact on the design of health plan eligibility, employee contribution and wellness and disease management features of a wide range of health plans and health insurance programs.

The final regulations jointly published by the U.S. Department of Labor's Employee Benefits Security Administration (EBSA), the Internal Revenue Service (IRS) and Department of Health and Human Services in today's Federal Register will replace interim regulations previously published by the agencies in 2001. Concurrent with its publication of the [final regulations](#), the EBSA also today issued updated [frequently asked questions](#) resource on HIPAA's nondiscrimination requirements.

HIPAA covered health plans and health insurance issuers generally will be required to comply with the final regulations no later than the earlier of the first day of the first plan year that begins after June 30, 2007 or January 1, 2008. The regulations have implications on health and wellness benefit programs sponsored by employers, unions and health insurers.

While much of the original guidance set forth in the interim regulations is retained without change in the final regulations, the final regulations make number of important refinements to the interim guidance. For instance, the final regulations clarify the implications of HIPAA's nondiscrimination rules on the health plan provisions that deny benefits for certain otherwise covered injuries if the injury arose from a specified cause or activity (the "source of injury rule"). The final regulations also include new guidance intended to illustrate how the nondiscrimination rules might affect carryover features of health reimbursement arrangements (HRAs).

The final regulations also clarify the guidance about the types of incentives and penalties that employer-sponsored health plans and other HIPAA-covered arrangements can use in connection with HIPAA-affected wellness programs. The final regulations clarify some ambiguities in the proposed rules, make some changes in terminology and organization, and add a description of wellness programs not required to satisfy additional standards.

The final rules published in today's December 13, 2006 Federal Register generally take effect on the first day of the plan year beginning on or after July 1, 2007. For calendar year plans, the new rules generally apply beginning

January 1, 2008.

We hope that this information is useful to you. If you have questions about your company's human resources, employee benefit or other operational risks or internal controls practices, or to request publications, information about upcoming programs, or other materials, please contact: Cynthia Marcotte Stamer, P.C., Member, Glast, Phillips & Murray, P.C., 2200 One Galleria Tower, 13355 Noel Road, LB 48, and Dallas, Texas 75240. Telephone (972) 419-7188. E-mail cstamer@gpm-law.com.

To see a copy of the final regulations or for other helpful resources and information about employee benefits and human resources matters, go to CynthiaStamer.com or contact Ms. Stamer. If you or someone else you know would like to receive future Alerts or announcements about other developments, publications or programs, please be sure that we have your current contact information – including your preferred e-mail – by providing that information to us via telephone, fax or e-mail using the above contact information.

IMPORTANT NOTICES REGARDING THIS COMMUNICATION

This publication is provided by Cynthia Marcotte Stamer, P.C. for general informational and educational purposes to clients and other interested persons. Neither its distribution to any party nor any statement or information it contains is intended to or shall be construed as establishing an attorney-client relationship or to constitute legal advice. Readers also are cautioned that the information in this publication may not apply to all situations. Consequently, readers must not rely upon this publication or information it contains as a substitute for competent individualized legal advice about the specific circumstances of the reader. If you have received this publication in error or do not wish to receive these in the future, please notify us of your preferences to the attention of Ms. Stamer via email, fax, regular mail or telephone.

REMINDER ABOUT ELECTRONIC COMMUNICATION SECURITY: E-mail and other electronic communication may not be secure unless appropriate encryption methods are used. Therefore, they may present heightened risks of security breaches of the communication. Electronic communications also generally are subject to discovery on the same terms as other communications. Please consider carefully these concerns before communicating by e-mail or other electronic means. If you wish for us to communicate with you by means other than e-mail or wish for us to arrange for encryption of our e-mail communications, please contact us at 972.419.7188.

IMPORTANT NOTICE REGARDING TRANSMISSIONS OF PROTECTED HEALTH INFORMATION: Protected Health Information (PHI) is individually identifiable health information. Any PHI contained in this e-mail is intended only for the intended recipient and is disseminated subject to the understanding that all requirements of HIPAA and other applicable laws for this disclosure have been met. If this communication contains PHI, you are receiving this information subject to the obligation to maintain it in a secure and confidential manner. Re-disclosure without additional consent or as permitted by law is prohibited. Unauthorized re-disclosure or failure to maintain confidentiality could subject you to penalties as described in state/federal law. If you are not the intended recipient, you are hereby notified that any disclosure, copying or distribution of this information is strictly prohibited. If you have received this message in error, please notify the sender immediately to arrange for return or destruction.

ANTISPAM NOTICE: Pursuant to the CAN-SPAM Act this communication may be considered an advertisement or solicitation. If you would prefer not to receive future marketing and promotional mailings or to provide other directions about the tailoring of messages directed to your attention, please send an email with the word "unsubscribe" in its subject heading to cstamer@gpm-law.com or otherwise contact us via postal mail to Cynthia Marcotte Stamer, Member, Glast, Phillips, & Murray, P.C., 2200 One Galleria Tower, 13355 Noel Road, L.B. 48, Dallas, Texas, 75240, Attention: Cynthia Marcotte Stamer, P.C.

CIRCULAR 230 NOTICE: The following disclaimer is included to comply with and in response to U.S. Treasury Department Circular 230 Regulations. ANY STATEMENTS CONTAINED HEREIN ARE NOT INTENDED OR WRITTEN BY THE WRITER TO BE USED, AND NOTHING CONTAINED HEREIN CAN BE USED BY YOU OR ANY OTHER PERSON, FOR THE PURPOSE OF (1) AVOIDING PENALTIES THAT MAY BE IMPOSED UNDER FEDERAL TAX LAW, OR (2) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY TAX-RELATED TRANSACTION OR MATTER ADDRESSED HEREIN.

PROGRAM REGISTRATION FORM

2007 HEALTH PLAN UPDATE

January 23, 2007

10:00 a.m. – 11:00 a.m. Eastern - 9:00 a.m. – 10:00 a.m. Central - 7:00 a.m. – 8:00 a.m. Pacific

The briefing will be conducted live in the Dallas Offices of Glast, Phillips & Murray, P.C. with registration beginning at 11:30 a.m. Central Time and the briefing commencing promptly at noon Central Time. Parties unable to attend the live briefing can elect through advance registration to participate via telephone. Program handouts will be distributed to participants registering in advance via e-mail. To register, please complete and return this program registration form with check or money order in the amount of \$25 no later than 8:30 a.m. Central Time on January 19, 2007. Make checks or money orders payable to: "Cynthia Marcotte Stamer, P.C." and forward your registration form along with your payment to: Glast, Phillips & Murray, P.C., 2200 One Galleria Tower, Suite 2200, 13355 Noel Road, L.B. 48, Dallas, Texas, 75240, Attention: Angela Haack. For additional information, contact Ms. Haack at ahaack@gpm-law.com or telephone

PLEASE REGISTER ME TO PARTICIPATE: (Check applicable) the live presentation or via telephone

Name:

Title:

Organization:

Street Address:

City, State, Zip Code

Telephone:

Fax:

E-mail:

I would be interested in a briefing or other information about:

REGISTRATION POLICY: Payment by check or money order and completed registration form must be received at least 48 hours in advance of the program to complete registration. Persons not registered at least 48 hours in advance will only participate subject to space availability. **CANCELLATION POLICY:** In order to receive credit, cancellation (either fax or mail) must be received at least 48 hours in advance of the meeting. Refunds will be made by check via first class mail postmarked within 60 days of receipt of written cancellation notice. **DISABILITIES ACCOMMODATION:** If you are an individual with a disability who requires accommodation to participate, please let us know at the time of your registration. **PROFESSIONAL CERTIFICATION OR CONTINUING EDUCATION CREDIT:** Upon request, participants will receive a certificate of participation documenting their participation in the program for use in demonstrating participation for continuing education, licensure or other continuing education credit. If you have special continuing education credit needs that you wish us to consider, please let us know. We are happy to visit with you about our ability to accommodate your request.