



## NFP COMPLIANCE UPDATES

### NFP GENERAL AGENCY UPDATES

#### It's That Time of Year for MLR Rebates

- Medical Loss Ratio (MLR) Rebates for 2022 are scheduled to be distributed to applicable Employer groups.
- Since employees often contribute to the premium, employers have an obligation to share the rebates (or make a good faith effort to do so), depending on circumstances.

[SEE NFP'S MLR REBATES WHITE PAPER →](#)

#### Welcome, Sarah Confer

Sarah has recently joined our team as Coordinator, Producer & Agency Services. She will be coordinating many of our communications and updating our NFPBNGA site, among other efforts to support NFPBNGA and our producer partners.



Corporate Benefits  
Compliance

#### MLR REBATES: A GUIDE FOR EMPLOYERS

The ACA requires medical insurance companies ("insurer" or "insurers") to pay annual Medical Loss Ratio (MLR) rebates to policyholders by each September 30 if the insurer spent less than a specified minimum percentage of the premium on medical claims and certain healthcare quality improvement initiatives in the prior calendar year. The MLR provision is intended to limit the amount of money that insurers can allocate to administrative expenses and profits.

Employers that receive MLR rebates have compliance obligations regarding the use of the rebates, which may include time-sensitive requirements to distribute to eligible plan participants (potentially including former participants) any portion of the rebate that constitutes a plan asset. This publication provides an overview of the administration of MLR rebates for fully insured employer-sponsored group health plans that are subject to ERISA. It offers information regarding **Is the Rebate a Plan Asset?** (Appendix A) and includes a **Sample Employee Communication** for notifying employees about applicable rebates (Appendix B). It also includes a section on the administration of MLR rebates received by non-ERISA plans (see under Special Rules for Church and Non-Federal Governmental Plans).

*Employers that receive MLR rebates have compliance obligations regarding their use, which may include time-sensitive requirements to distribute plan assets to eligible plan participants.*

MLR rebates do not apply to self-insured plans or to non-medical health plans such as stand-alone dental or vision plans, which are considered "excepted benefits" that are not subject to the ACA's rules. However, any premium credits or refunds issued by an insurer to an employer in connection with excepted benefits, or issued in connection with ACA-covered benefits in a manner that does not constitute a true MLR rebate, may nonetheless include amounts that may be considered ERISA plan assets. In such cases, an employer's receipt of such premium credits or refunds triggers the same fiduciary duties that apply to MLR rebates. For further information about the treatment of discretionary or non-MLR premium credits, see the NFP publication **Compliance Considerations on Insurance Carrier Refunds in the COVID-19 Environment**. For general information about ERISA, see the NFP publication **ERISA Compliance Considerations for Health and Welfare Benefit Plans**.

#### OVERVIEW OF MEDICAL LOSS RATIO REBATES

Effective for 2011, with the first rebates distributed in 2012 and then annually thereafter, insurers are required to issue MLR rebates if the percentage of premium revenue the insurer spent on patient care (claims) and quality of care improvements for its aggregated book of business in a state was less than 85% (for large group policies) or less than 80% (for small group and individual policies) in the prior calendar year. States may apply a higher MLR on insurers or define "small group" as less than 100 employees (versus the standard ACA 50-employee definition). The insurer's MLR calculation is based on the requirements of the state that regulates the insurance contract between the insurer and the employer purchasing the policy, regardless of where the employer or its plan participants are located.

## COMPLIANCE CORNER

Topics included in August and September NFP Compliance Corner newsletters:

#### AUG. 29, 2023 →

- It's MLR Rebate Time Again!
- Calendar Year SAR Must be Distributed by September 30
- IRS Releases 2024 Required Contribution Percentages for Affordable Coverage
- Tenth Circuit Holds ERISA Preempts Oklahoma Pharmacy Benefit Manager Law
- DOL Issues MHPAEA Publication for Employees
- COVID-19 Benefits Compliance Resources

#### SEPT. 12, 2023 →

- **Reminder: Medicare Part D Notice to Employees is Due October 14, 2023**
- **Reminder: Calendar Year SAR Must be Distributed by September 30**
- **Reminder: It's MLR Rebate Time Again!**
- DOL Extending Grace Period for EFAST2 Login Credentials
- Tenth Circuit Holds Denial of Minor's Residential Treatment Claims Was Abuse of Discretion
- District Court Addresses COBRA Notices in Class Action Lawsuit
- Ninth Circuit Reverses Class Action Case on Behavioral Health Claims, Again
- COVID-19 Benefits Compliance Resources

#### SEPT. 26, 2023 →

- **Reminder: Medicare Part D Notice to Employees is Due October 14, 2023**
- **Reminder: Calendar Year SAR Must be Distributed by September 30**
- **Reminder: It's MLR Rebate Time Again!**
- CRS Issues Report on Preventive Services Access Pending Braidwood Decision
- CMS Issues Proposed Rules on No Surprises Act Federal Independent Dispute Resolution Process Fees
- Fourth Circuit Focuses on Availability of Monetary Relief Under ERISA for Denied Heart Transplant
- Comment Period on MHPAEA Proposed Rules Extended
- COVID-19 Benefits Compliance Resources



## WHAT'S NEW?

Select a carrier logo below to visit our carriers' update pages, where each item listed can be accessed.



### Virtual Event on Cancer Care

**October 4 | 9:00-9:30am**

Highmark welcomes you to join in on the virtual discussion to learn about Allegheny Health Network's transformative approach to Cancer Care. This session will benefit Producers with clients or prospects in the Western Pennsylvania Region. We hope you can attend.

**REGISTER →**

### More Updates

- [CAA Gag Clause Prohibition Attestation →](#)
- [Notice of Medical Loss Rebate to Group Market and Individual Market →](#)
- [New Policy Regarding Diabetes GLP-1 Drug Coverage →](#)
- [Grandmothered Small Group Policy Renewal Options for 2023-2024 →](#)

## UPMC HEALTH PLAN

### Member Letters Sent in Error

In September, UPMC Health Plan incorrectly issued termination letters to some employer-sponsored group members in error. These groups were not terminated in the system and members will receive correction letters. Account Management and your NFP BNGA Team have worked together to identify impacted groups. Producers have been notified by our team if there were impacted clients within their book of business. Please direct any questions to [nfpbnga@nfp.com](mailto:nfpbnga@nfp.com).

### More Updates

- [CAA Gag Clause Employer/Broker FAQs →](#)
- UPMC has confirmed that no clients were eligible for MLR rebates the 2022 year.

## CONTACT US

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