Sample DOL Document Request #3

Attachment to DOL letter requesting documents (received by an employer in December 2012)

[*The following was included as an attachment to a December, 2012 letter from the DOL informing an employer of a DOL health plan investigation and requesting production of the listed documents.*]

ATTACHMENT

1. Every document or instrument governing any term of the Plan including but not limited to any document denominated "Plan Document" or amendment thereto, regardless of when such document, instrument or amendment was adopted, provided that it was effective at any time on or after January 1, 2010. For purposes of this request, a document or instrument governing the plan shall include any document that:

   a. provides for one or more persons or entities (or a procedure for naming such persons or entities) with any authority to control or manage any aspect of the operation or administration of the Plan;
   b. provides any procedure for establishing or carrying out a funding policy for the Plan;
   c. describes any procedure under the Plan for the allocation of responsibilities for the operation or administration of the Plan;
   d. provides a procedure for amending the Plan, or identifying the persons who have authority to amend the Plan;
   e. provides a claims or appeals procedure for the Plan;
   f. specifies the basis on which payments are made to and from the Plan, including but not limited to:
      i. any document governing eligibility, coverage, reimbursement or payment rates;
      ii. preauthorization requirements;
      iii. individual or aggregate dollar limits on claims;
      iv. hospital stay limits;
      v. deductibles or co-pays under the Plan;
      vi. any documents which specify the members of any network of eligible or preferred providers under the Plan;
      vii. rules regarding coverage of medical/surgical and mental health benefits, including information as to any aggregate lifetime dollar limits and annual dollar limits.

2. Every document concerning the adoption or amendment of any document required to be produced pursuant to paragraph 1.

3. Every document concerning the distribution, whether to participants, beneficiaries or others, of any document required to be produced pursuant to paragraph 1.

4. Every Summary Plan Description ("SPD") or Summary of Material Modifications ("SMM") pertaining to the Plan that has been effective on or after January 1, 2010, regardless of when it was adopted.

5. Every document concerning the adoption, amendment or distribution, whether to participants, beneficiaries or others, of any document required to be produced pursuant to paragraph 4.

6. A copy of any document sent to the Plan's participants or beneficiaries, that pertains to the Plan's benefits or its claims procedures that was that was operative on or after January 1, 2010, including benefit booklets or brochures, and any document concerning such documents sent to the Plan's participants or beneficiaries, excluding any document pertaining to any individual benefit claim.

7. All contracts with insurance companies for the provision of health benefits that were effective on or after January 1, 2010, regardless of when executed, and documents concerning the negotiation of the terms of such contracts, their adoption, execution or distribution.

8. All contracts for claims processing, administrative services, and reinsurance that were effective on or after January 1, 2010, regardless of when executed, and all documents concerning the adoption, execution or amendment of such contracts.

9. All documents which describe the responsibilities of both the employer and employees with respect to the payment of the costs associated with the purchase and maintenance of health and welfare benefits as those responsibilities existed on or after January 1, 2010.

10. In accordance with the Health Insurance Portability and Accountability Act of 1996, please provide the following documents to the extent not already called for by a prior paragraph:

   a. A copy of the Plan's rules for eligibility to enroll under the terms of the Plan (including continued eligibility) effective on or after January 1, 2010, and all documents concerning the adoption, execution or distribution of such rules;
   b. An exemplar of each and every form of certification provided to those employees who have lost health care coverage since January 1, 2010 or to be provided to those who may lose health care coverage under this plan in the future, which certifies creditable coverage earned under this plan;
   c. A copy of the record or log of all Certificates of Creditable Coverage for individuals who lost coverage since January 1, 2010 under the Plan or requested certificates;
   d. A copy of the written procedure for individuals to request and receive Certificates of Creditable Coverage in effect on January 1, 2010, any amendment thereto and any such procedure effective subsequent to January 1, 2010;

e. An exemplar of each form of general notice of preexisting condition used on or after January 1, 2010, informing individuals of the exclusion period, the terms of the exclusion period, and the right of individuals to demonstrate creditable coverage (and any applicable waiting or affiliation periods) to reduce the preexisting condition exclusion period, or proof that the plan does not impose a preexisting condition exclusion;

f. Copies of individual notices of preexisting condition exclusion issued to certain individuals per the regulations (including any lists or logs an administrator may keep of issued notices), or proof that the Plan does not impose a preexisting condition exclusion;

g. A copy of each criteria for an individual without a certificate of creditable coverage to demonstrate creditable coverage by alternative means utilized by the Plan on or after January 1, 2010;

h. Records of claims denied due to the imposition of the preexisting condition exclusion (as well as the Plan's determination and reconsideration of creditable coverage, if applicable), or proof that the Plan does not impose a preexisting condition exclusion;

i. A copy of the written procedures that provide special enrollment rights to individuals who lose other coverage and to individuals who acquire a new dependent, if they request enrollment within 30 days of the loss of coverage, marriage, birth, adoption, or placement for adoption, and any lists or logs an administrator may keep of issued notices.

11. A copy of the Plan's Newborns' Act notice in use on or after January 1, 2010 and any lists or logs of notices an administrator may keep of issued notices.

12. A copy of each sample of the written description of benefits mandated by WHCRA required to be provided to participants and beneficiaries upon enrollment utilized by the plan on or after January 1, 2010.

13. A copy of each sample of the written description of benefits mandated by WHCRA required to be provided to participants and beneficiaries annually utilized by the plan on or after January 1, 2010.

14. All documents describing any wellness programs or disease management programs offered by the plan on or after January 1, 2010, including any disclosure statement regarding the availability of a reasonable alternative to the Plan's mandated requirement to qualify for an award or avoid a penalty.

15. A copy of the COBRA general notice and the COBRA election notice used by the Plan.

16. If the Plan is claiming or has claimed grandfathered health plan status within the meaning of section 1251 of the Affordable Care Act, please provide the following records:

a. A copy of each form of the grandfathered health plan status disclosure statement that was required to be included in plan materials provided to participants and beneficiaries describing the benefits provided under the Plan;

b. Records documenting the terms of the Plan in effect on March 23, 2010 and any other documents necessary to verify, explain or clarify status as a grandfathered health plan. This may include documentation relating to the terms of cost sharing (fixed and percentage), the contribution rate of the employer or employee organization towards the cost of any tier of coverage, annual and lifetime limits on benefits, and if applicable, any contract with a health insurance issuer, which were in effect on March 23, 2010.

17. Regardless of whether the Plan is claiming grandfathered status, please provide the following records in accordance with section 715 of ERISA as added by the Affordable Care Act:

a. In the case of a plan that provides dependent coverage, please provide a sample of each written notice describing enrollment opportunities relating to dependent coverage of children to age 26 utilized by the Plan on or after September 23, 2010;

b. If the Plan has rescinded any participant's or beneficiary's coverage, supply a list of participants or beneficiaries whose coverage has been rescinded, the reason for the rescission, and a copy of the written notice of rescission that was provided 30 days in advance of any rescission of coverage;

c. If the Plan imposes a lifetime limit or has imposed a lifetime limit at any point since September 23, 2010, please provide documents showing the limits applicable for each plan year on or after September 23, 2010;

d. Please provide a sample of each form of notice sent to participants or beneficiaries stating that the lifetime limit on the dollar value of all benefits no longer applies and that the individual, if covered, is once again eligible for benefits under the plan;

e. If the Plan imposes an annual limit or has imposed an annual limit at any point since September 23, 2010, please provide documents showing the limits applicable for each plan year on or after September 23, 2010, including any waivers.

18. If the Plan is **NOT claiming** grandfathered health plan status under section 1251 of the Affordable Care Act, please also provide the following records:

a. A copy of each form of choice of provider notice informing participants of the right to designate any participating primary care provider, physician specializing in pediatrics in the case of a child, or health care professional specializing in obstetric or gynecology in the case of women utilized by the Plan on or after September 23, 2010, and a list of participants who received the disclosure notice.

b. Samples of each form of adverse benefit determination, notice of final internal adverse determination notice, and notice of final external review decision, utilized by the Plan on or after September 23, 2010;

c. If applicable, any contract or agreement with any independent review organization or third party administrator providing external review.

19. Any documents that exist which relate to the Plan's attempt(s) to determine compliance with the Mental Health Parity and Addiction Equity Act (MHPAEA), including any analyses the Plan has done regarding testing the parity of the non-quantitative treatment limitations or the quantitative treatment limitations when compared to the medical/surgical limitations.