

Publications

DOL, Treasury & HHS issue final HIPAA Nondiscrimination Rules

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On December 13, 2006, the Departments of Labor, Treasury, and Health and Human Services (the “Departments”) issued final HIPAA nondiscrimination and wellness program regulations. 71 Fed. Reg. 75014. The Departments had issued interim final nondiscrimination rules and proposed bona fide wellness program rules in 2001. 66 Fed. Reg. 1378 (Jan. 8, 2001) (nondiscrimination); 66 Fed. Reg. 1421 (Jan. 8, 2001) (wellness). The new rules apply to “group health plans” under HIPAA and are applicable to plan years beginning on or after July 1, 2007 (January 1, 2008 for calendar year plans).

The final nondiscrimination rules generally restate the interim final rules, but clarify questions that plans had asked regarding source-of injury exclusions, carryovers under health reimbursement arrangements (HRAs), the interaction of state extension of benefits laws with HIPAA’s nonconfinement rule, and the interaction of HIPAA’s rules with other federal laws, such as the ADA. The Departments also finalized the proposed wellness program rules and added new requirements for wellness programs to be permissible under the HIPAA nondiscrimination rules.

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