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Update: Embedded MOOP Requirement Applies to Large Group and Self-Funded Plans

Groom Law Group published a client alert on May 20, 2015 describing informal guidance from the Department of Labor (“DOL”) and the Department of Health and Human Services (“HHS”) applying an embedded maximum out-of-pocket limit (“embedded MOOP”) on individuals enrolled in family coverage. At that time, there remained open questions regarding whether the embedded MOOP requirement would be limited to insurance in the individual and small group markets or whether such requirement would also be applied to insured coverage in the large group market, as well as self-funded plans.

On May 26, 2015, the DOL, HHS, and the Department of Treasury (“Departments”), issued guidance clarifying the embedded MOOP requirement applies to insured coverage in the large group market as well as to self-funded plans (“May 26th Guidance”). This client alert describes the new May 26th Guidance. For further information on the embedded MOOP requirement, please consult our May 20, 2015 client alert available at: <http://www.groom.com/resources-972.html>.

The May 26th Guidance is comprised of a series of FAQs on several distinct topics regarding the Affordable Care Act. As noted, the May 26th Guidance, advises, in part, that the embedded MOOP requirement applies to all non-grandfathered group health plans, including non-grandfathered self-insured and large group health plans. See FAQs about Affordable Care Act Implementation, Part XXVII, Q&A.1. The requirement will apply for plan or policy years beginning on or after 2016. *Id.* at Q&A.2.

The May 26th Guidance provides some much needed clarity regarding the applicability of the embedded MOOP requirement to large group insured and self-funded plans. The requirement to apply an embedded MOOP with respect to other than self-only coverage is likely to result in increased administrative costs and burdens for plans and issuers, as well as increased utilization. With the 2016 plan year fast approaching (especially with respect to calendar year plans), plan sponsors and issuers may need to act quickly to make the necessary changes to their plans in implementing the new embedded MOOP requirement. Accordingly, we encourage plan sponsors and issuers to review this guidance and begin to implement changes necessary to ensure that their plans and policies are in compliance with the embedded MOOP requirement by the start of their 2016 plan and policy years.

Please contact any of the attorneys in the Health and Welfare Practice Group at Groom Law Group or your regular Groom Law Group attorney for further information.