March, 2003

HMF 4/25/03

Garner
Consulting
35 North Lake Avenue, Suite 720
Pasadena, California 91101
Phone: (626) 440-0399
FAX: (626) 440-0496

BULLETIN! BULLETIN! BULLETIN!

MEDICARE'S LIFE EXPECTANCY SHORTENED

Each year, the Trustees of the Medicare trust fund, report in detail on its financial condition. The 2003 report indicates that the Hospital Insurance (HI) Trust Fund will be exhausted in 2026, four years earlier than last year's projection. Even so, the Part A Trust Fund is still in much better shape than it was several years ago. As recently as 1996, the Trustees projected the trust fund would be exhausted in 2001.

The shorter life span for the HI Trust Fund is due to a combination of pessimistic assumptions about wages, which would erode the Medicare payroll-tax revenues, and higher hospital spending. Tax revenue was 4% less than expected in 2002, while hospital spending was 2% higher than anticipated.

The Trustees said that while the program meets the test of short-term financial solvency, quick action is needed to ensure long-run financial integrity. Closing the gap between revenues and expenditures would require that benefits be cut 42% or that Medicare payroll taxes be increased 71%.

Costs are also increasing rapidly for Part B services, which includes physician and outpatient services. Part B is funded by general revenues and premiums paid by beneficiaries, which are adjusted automatically to cover changes in expenditures. Part B costs rose 11% in 2002 and are expected to double over the next decade.

MEDICAL MALPRACTICE

On March 13, 2003, the House of Representatives approved HR 5, which would limit jury awards for noneconomic damages in medical malpractice lawsuits to no more than $250,000 and eliminate joint and several liability. The bill applies to lawsuits against HMOs as well as physicians.

The bill also limits the ability of group health plans to recover payments from third parties. The bill would allow evidence of "collateral-source benefits", e.g., group health benefits, to be introduced at trial. Collateral-source benefits would not be allowed to place a lien on an individual. Therefore, while the bill would decrease medical malpractice premiums, it would drive up group health benefit costs by restricting subrogation and third-party reimbursement. If the reductions in medical malpractice premiums result in significantly lower physician and hospital costs, health plans could see a net reduction in costs.

FSA ROLLOVERS

Representative Jim DeMint (R-SC) has introduced HR 1177, which would allow employees to roll over up to $500 a year in unused health flexible spending account money to the next plan year. The Bush Administration has indicated its support for such a rollover by including it in its proposed budget. Currently, unused FSA amounts are forfeited under the "use-it-or-lose-it" rule.

EBSA ANNOUNCES A COMPLIANCE ASSISTANCE PROGRAM

On February 26, 2003, the U.S. Department of Labor's Employee Benefits Security Administration (EBSA—formerly known as the Pension and Welfare Benefits Administration, PWBA) unveiled a new compliance assistance program to help employers fulfill their obligations under a number of laws, including:

- The Health Insurance Portability and Accountability Act (HIPAA)
- The Mental Health Parity Act (MHPA)
- The Newborns' and Mothers' Health Protection Act (NMHPA)
- The Women's Health and Cancer Rights Act (WHCRA)

The new publications include a self-audit checklist; a guide summarizing the laws' notice requirements, including sample language and tips for avoiding the most common mistakes.

EBSA also released a report summarizing an audit from 2001 of nearly 1,300 group health plans that found compliance with the non-notice provisions of the laws varied from only 71.9% under HIPAA to 95.5% under WHCRA. The most significant non-compliance related to the laws' various notice requirements.

Garner Consulting provides expert advice to assist employers in compliance. Our brokerage division, Garner Insurance Services, provides this advice at no additional fee to brokerage clients. See our Garner Insurance Services website (www.garnerbenefits.com) for a listing of the states in which we are licensed.

If you would prefer to ***receive our monthly bulletin via e-mail***, please visit our web site at www.garnerconsulting.com and click on "Contact Us." Please complete the form with your name and address as shown on the address label and be sure to click the button to subscribe to our monthly bulletin.

Garner Consulting does not practice law. Please seek qualified counsel if you need legal advice. For employee benefits or managed care consulting, please call Zaven Kazazian or Andy Keowen at (626) 440-0399. Please visit our web site at www.garnerconsulting.com, where you can find back issues of our bulletins.