Arkansas Healthcare Transparency Initiative

Issue 2, March 2016

APCD Data Submission Status

Per Rule 100, test file submissions to the Arkansas APCD were to be received by January 1, 2016. Test files contain a limited amount of data and are intended to assist both the Arkansas APCD and submitting entities in preparation for historical test file submission, which will contain larges data files with claims spanning January 2013—December 2015. Few submitting entities were able to meet the January 1st requirement, with a majority filing exemptions to extend the date of test file submissions.

The Arkansas APCD Technical Support Team has been working extensively with data submitters to process, review, and provide feedback to submitting entities on their test file submissions. As of March 4th, 2016, nine distinct entities have submitted test files to the APCD. Of the nine that have submitted test files, three of these entities have passed the data intake process and will be ready to submit historical files by their respective deadlines.

Additional focus has been placed on assisting Group 1 submitting entities (those with at least 100,000 covered lives) with test files submission to ensure these entities are able to meet the March 31, 2016 historical file submission date. Group 1 represents approximately 3.5 million covered individuals in Arkansas.

U.S. Supreme Court Decision in Gobeille v. Liberty Mutual

In December 2015, the Supreme Court of the United States heard oral arguments in Gobeille v. Liberty Mutual Insurance Company, a case involving the Employee Retirement Income Security Act of 1974 (ERISA) and all-payer claims databases (APCDs). The question before the Court was whether a state law requiring companies to submit medical claims data to the state was preempted by ERISA. Generally, when state law and federal law conflict, federal law displaces, or preempts, state law due to the Supremacy Clause of the Constitution.

On March 1, 2016, the Court released its opinion ruling that ERISA pre-empts state law—in this case Vermont's mandatory APCD submission law—as it applies to ERISA plans. This means that Vermont cannot require health plans subject to ERISA to submit data to its APCD.

The decision was a broad application of ERISA's preemption clause. The opinion states, "pre-emption is necessary to prevent the States from imposing novel, inconsistent, and burdensome reporting requirements on plans," and that "differing, or even parallel, regulations from multiple jurisdictions could create wasteful administrative costs." Justice Ginsburg, joined by Justice Sotomayor, dissented from the majority opinion finding that "because ERISA's reporting requirements and the Vermont law elicit different information and serve distinct purposes, there is no sensible reason to find the Vermont data-collection law preempted."

While the rationale for the Court's ruling was to reduce the potential for "unnecessary, duplicative, and conflicting reporting requirements," this ruling hinders state efforts to collect comprehensive information used to increase healthcare transparency and better understand healthcare cost, quality, and use. The Arkansas Insurance Department (AID) anticipated the Court ruling and excluded ERISA plans subject to ERISA from requirements of Arkansas Insurance Department Rule 100 until further notice.

Importantly, the U.S. Department of Labor could take steps to facilitate the collection of healthcare data currently collected by state APCDs. The Court noted "that it is the Secretary of Labor, not the separate States, that is authorized to decide whether to exempt plans from ERISA reporting requirements or to require ERISA plans to report data."

The APCD Council is reviewing the opinion and is seeking state input about the decision. Comments or questions can be sent to info@apcdcouncil.org.

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