

## **Group Health Plan Funding**

One of the principal requirements of a self-funded group health plan sponsor is that you maintain sufficient funds to finance claims for benefits due under your plan. Benefits due under a self-funded group health and welfare plan are a promissory obligation to employees by the plan sponsor. The Employee Retirement Income Security Act (ERISA) mandates that this promise be satisfied fully and timely. Delinquent funding of claims is a breach of fiduciary duties under ERISA.

Under the Department of Labor (DOL) claims regulation, funds must be available within thirty (30) days of the date a valid claim is known to be received by the employer. Receipt by a Third Party Claims Administrator, such as MedCost Benefit Services, is considered receipt by the employer. If funding is delinquent for a period of sixty (60) days, the employer is required to immediately notify in writing all covered employees and all health care providers who have not been paid. If the employer does not provide notification, MedCost is required by the DOL to notify all covered employees and health care providers of the delinquency of funding by the employer.

ERISA § 502(1) provides that, in the case of a breach of fiduciary duty, the DOL shall assess a civil penalty against the named fiduciary in an amount equal to 20% of the amount recovered by the DOL under a settlement agreement or through an adverse court decision. In other words, the DOL can assess a civil penalty in an amount equal to 20% of the dollar amount of the delinquent un-funded claims.

Keep in mind that your stop-loss insurance policy may require timelier funding than the DOL claims regulation. To avoid any potential for stop-loss insurance claim denial, we recommend that you fund all claim runs within 24 hours of notification.

If you release check runs immediately every week, you are already meeting funding requirements as outlined in the Employee Retirement Income Security Act (ERISA).