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Fiduciary Checklist: Health and Welfare Plans

Use this checklist to ensure your organization is meeting its fiduciary responsibilities under ERISA when managing health and welfare plans.

☐ **01.**

Identify Who's Who.

ERISA requires certain roles to be filled, such as "plan administrator", "named fiduciary", "settlor". Make sure that you know which people within your organization are handling which functions. And do the same for entities outside your organization (e.g., if a TPA is hearing a final appeal of a denied claim, they will usually be a fiduciary; make them agree to fiduciary standards in the contract for those services).

☐ **02.**

Designate a Committee.

ERISA's fiduciary duty rules are complex and changing. Consider creating a Benefits Committee or similar structure. Put into writing that Committee's authority and responsibilities. Have the Committee meet as needed.

☐ **03.**

Authority to Act.

Verify that you know how every plan decision is made. Verify that the person / committee making that decision has proper authority to act. Consider putting that into a delegation document from your organization's highest authority (e.g., the Board of Directors).

☐ **04.**

Monitoring of Service Providers.

ERISA requires that a plan fiduciary monitor service providers. Establish a process to do so. Conduct RFPs on a regular basis. Require your vendors to report errors and enrollee complaints (or find another way to monitor them). Consider an audit.

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☐ **05.**

Fees

Identify how to monitor the fees for all your health and welfare plan vendors – TPAs, PBMs, brokers, wellness vendors, dental vendors, vision vendors, law firms, accountants, etc. This is especially important after the Consolidated Appropriations Act, 2026 ("CAA 2026"). Ensure that the fees are reasonable and that you document this process.

☐ **06.**

Plan Documents and Forms.

Verify that your plan documents (including summary plan descriptions) are current, accurate and modified as needed. Verify who is responsible for updating them (e.g., internal personnel or an external vendor). Identify who is responsible for distribution of materials to enrollees and governmental filings (e.g., Form 5500).

☐ **07.**

Monitor Changes in Law.

New threats and new legal changes happen regularly. Verify how you will monitor them, so your procedures, forms, etc., can be timely updated.

☐ **08.**

Plan Assets.

Pay particular attention to any use of plan assets, including participant contributions and refunds from insurers or vendors. Verify that any use of plan assets complies with special ERISA rules.

☐ **09.**

Artificial Intelligence ("AI").

Ask your vendors how they use AI and algorithms. Consider whether to limit the use of these in some situations (e.g., appeals of denials involving medical judgment).

☐ **10.**

Cybersecurity.

Verify that your internal cybersecurity procedures are sufficient to protect sensitive enrollee information (including HIPAA-covered protected health information). Verify that your vendors comply with robust security requirements.

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