



argos health

Your Revenue Cycle Partner for Complex Claims

**Discover ERISA revenue recovery opportunities during the
COVID-19 pandemic and beyond**

What's in it for me?

- Realize recovery of up to 1% NPSR
- Reduced habitual denials/underpayment – even some you believe are non-recoverable
- Improve patient experience & brand loyalty
- Account sourcing fully worked (inhouse + vendor/partner) - zero GAAP value

Why Now?

- Since the onset of COVID-19, denials have **risen 11% nationally**
- 7 of the top 11 denial reasons **can be challenged under ERISA**
- Half of all denials are for one of the top three ERISA challenges: **Eligibility, Authorizations** and **Services Not Covered**
- During COVID-19 spike, technical denials of eligibility & untimely filing have protections under **COVID Disaster Relief Notices**

Source: <https://www.changehealthcare.com/insights/denials-indexu>

How does it apply to Me?

- ERISA governs two categories of employer funded benefits:
 - Retirement
 - Health and Welfare
- Sole purpose is to protect benefits employee and family
- *Clearly dictates that benefits follow benefit plan documents*
- Preempts State Laws
- When payer reimbursement conflicts with coverages granted in the employee benefit plan documents, **providers have the right to appeal under ERISA.**

How is this different than what I do today?

- Most healthcare providers believe that **ERISA health plan** claims adjudication and benefit determinations are **the final decision** - In fact...they are **NOT!**
- We're **not appealing to the health plan of record**, which has already denied/underpaid the claim and substantiated it via an appeals process
- You can go directly to the **Employers Plan Administrator** – we review employer plan documentation to search for inappropriate denials/underpayments
- Where you find unjustified denials, **you can appeal** and **seek full payment**

Traditional Appeal vs. ERISA Appeal

Traditional

- Focuses on contract between provider and payer
- **Favors the payer**
- Appeals based on contract only
- State law presides

ERISA

- Focuses on contract between employer and employee known as the Summary Plan Description (SPD)
- **Favors the provider**
- Appeals based on ERISA law, DOL guidelines and supporting case rulings
- ERISA (as a federal law) supersedes state law

Identify Your Opportunity

Search for denials/underpayments that are due to one of the ERISA Adverse Benefit Determinations:

- Medical Necessity
- Preauthorization/Precertification - both ER and regular admissions
- Excluded/Not Covered service
- Experimental/Investigational
- ER/Urgent care charges not qualified (different form of medical necessity)
- Timely Filing, Appeal rights exhausted
- Reductions due to not following plan instructions
- Usual, customary, and reasonable
- Maximum allowable exceeded
- "Take-Back's/Recoupments" for retro coverage without presence of member fraud

How do ERISA appeals favor the beneficiary/provider?

- ERISA affords beneficiaries **more robust avenues to challenge benefit determinations** than those provided by statutory plan-directed claims
- ERISA mandates an appeals process after the health plan final determination including: **administrative, civil actions, and Dept of Labor enforcement requests** once administrative process has been exhausted
- Plans are required to provide (1):
 - **Specific reason/reasons for adverse determination** – much more than RA Reason and Remark codes
 - **Reference to specific plan provisions** under which the determination was made - affords the ability to refute the evidence
 - All information/documentation necessary to **'Perfect the Claim'** and explain the reason(s) why it is required

(1) <https://www.law.cornell.edu/cfr/text/29/2560.503-1>

ERISA Protections – Take Back's/Recoupments

- Part 7 of ERISA (since 2010 – PPACA/Obamacare)
- **“Strictly prohibit coverage rescissions”** any fully, self insured & ‘grandfathered’ plans **“unless the participant performs an act or practice that constitutes fraud or makes an intentional misrepresentation of material fact”**.
- Per Public Health Service Act – Section 2793 – “Plan must provide full and fair review of any adverse benefit determination” – “Is required to provide **any/all evidence considered, relied upon, or generated by the plan or issuer**” and **“additional rationale for denial at the internal appeal stage”**
- Must provide at least 30 days advance written notice to each [participant](#) who would be affected before coverage may be rescinded

<https://www.law.cornell.edu/cfr/text/45/147.128>

IRS & EBSA COVID Disaster Relief Notices: An Unprecedented **Additional** Opportunity

Provide additional protections under ERISA to **'Stop the Clock'** on Timely Filing, Exceeded Appeal Deadline and many Coverage denials

Extend timeframes for Employee Benefit Plans, Participants, and Beneficiaries affected by the COVID-19 outbreak:

- Enrollments
- COBRA continuation coverages/premium payments
- Dates - participants/beneficiaries/providers file benefit claims (Timely Filing)
- Dates - file appeal for adverse benefit determinations (Appeal deadline exhausted)
- Dates - file information to perfect a request for external review upon an incomplete initial request (ERISA External review appeal)

<https://www.govinfo.gov/content/pkg/FR-2020-05-04/pdf/2020-09399.pdf>

Guidance on continuation of Relief?

EBSA (Employee Benefit Security Administration) issued guidance on continuation of Disaster Relief Notice based on ERISA section 518 and code section 7508A which limits the ability to provide

- **Extensions of timeframes for Employee Benefit Plans, Participants, and Beneficiaries by more than one (1) year.** This notice provides additional information on deadlines under ERISA to **‘Limits actions that do not exceed one (1) year from Adverse Benefit Determination’** on Timely Filing, Exceeded Appeal Deadline and many Coverage denials they are encountering today exclusively for ERISA governed health plans.
- This creates **more urgency** than previously issued notice back in 2020.

<https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/disaster-relief/ebsa-disaster-relief-notice-2021-01>

For More Information

Troy D. Roth

troth@argoshealth.com

972.342.8221