

DOL Says Cross-Plan Offsetting Violates ERISA Fiduciary Duties

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PRACTICES ERISA and Other Benefits Litigation, Employee Benefits and Executive Compensation

Recently, the DOL announced a settlement with EmblemHealth Inc., an insurer and third-party administrator (“**TPA**”) of employer-sponsored group health plans subject to ERISA. Pursuant to this settlement, Emblem agreed to stop “cross-plan offsetting” and make whole all affected plan participants. “Cross-plan offsetting” is the administrative practice used by TPAs to recoup alleged overpayments made to healthcare providers for expenses incurred by participants covered under Plan X by withholding subsequent payments owed to those same providers for expenses incurred by participants covered under Plan Y – where Plan X and Plan Y are maintained by unrelated employers. In a press release announcing the settlement, the DOL stated: “Cross-plan offsetting practices punish and shortchange health plan participants and their beneficiaries and violate basic tenets of [ERISA].” Employers are advised to determine if the TPAs of their self-insured group health plans are engaging in cross-plan offsetting by reviewing their administrative services agreements with the TPAs.

The press release is available [here](#).