

Kraft Heinz Just Sued the TPA of Its Group Health Plan. Are You Monitoring Yours?

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PRACTICES ERISA and Other Benefits Litigation, Health and Welfare Plans, Employee Benefits and Executive Compensation

On June 30, 2023, Kraft Heinz ("**Kraft**") filed suit against Aetna Life Insurance Company ("**Aetna**") alleging Aetna had breached its fiduciary duties and engaged in prohibited transactions, including that Aetna: (i) engaged in "cross-plan offsetting" under its self-insured group health plan to the detriment of Kraft but benefiting Aetna's fully-insured plans business, (ii) reprocessed and repriced benefit claims to pay providers less than the amount Aetna charged to the plan and kept the difference, (iii) applied less rigorous claims adjudication standards for paying self-insured plan claims than Aetna used for its fully-insured plans, (iv) failed to provide all requested claims data to Kraft, and (v) comingled plan funds with its own funds.

Recent legislative and regulatory actions highlight an increased focus by government agencies on the transparency of service provider compensation and claims data. Under ERISA, the plan administrator of an employer-sponsored group health plan has an ongoing fiduciary duty to monitor the performance of plan service providers, including a third-party administrator ("**TPA**"). If a TPA is not performing adequately, then the plan administrator must take action, such as giving notice and opportunity to cure, terminating the relationship, or filing suit. Employers should understand their obligations to monitor their service providers and ensure they are conducting appropriate ongoing reviews for determining both compliance with ERISA's requirements, as well as whether benefits claims are being paid in the correct amounts under the terms of the plan.