



News Release

DEPARTMENT OF LABOR REACHES SETTLEMENT WITH NEW YORK INSURER, 3RD-PARTY HEALTH PLAN ADMINISTRATOR TO END ‘CROSS-PLAN OFFSETTING’ PRACTICE

Resolves allegations company violated its fiduciary duties under federal law

NEW YORK – The U.S. Department of Labor has entered into a settlement agreement with EmblemHealth Inc., a New York-based insurer and third-party administrator of employment-based group health plans governed by the Employee Retirement Income Security Act, resolving claims that Emblem breached its fiduciary duties under federal law by engaging in a practice known as “cross-plan offsetting.”

An investigation by the department’s [Employee Benefits Security Administration](#) found Emblem used cross-plan offsetting to recoup alleged overpayments it made to healthcare providers under employment-based health plans. In so doing, the company withheld subsequent payments owed to the same providers for healthcare expenses incurred by participants covered under completely different employment-based health plans. The department alleged this practice violated Emblem’s ERISA fiduciary duties because Emblem benefitted at the expense of the employment-based group health plans and their participants by wrongfully retaining assets from one health plan for a debt allegedly owed by a different health plan.

Emblem’s cross-plan offsetting practice also put participants at risk of being balance billed for the wrongfully offset claims. Balance billing could happen when an out-of-network provider billed a participant for the wrongfully withheld amount even though the participant’s health care services obtained from the out-of-network provider should have been covered by Emblem. Additionally, in some circumstances, Emblem may have wrongfully withheld payments owed directly to participants for health care costs that should have been covered by Emblem.

“Cross-plan offsetting practices punish and shortchange health plan participants and their beneficiaries and violate basic tenets of the Employee Retirement Income Security Act. The Department of Labor applauds Emblem for reforming its practices to stop cross-plan offsets,” said Regional Solicitor of Labor Jeffrey S. Rogoff in New York.

“Violations such as these can be prevented with knowledge, due diligence and awareness. The Employee Benefits Security Administration encourages health plan participants and plan providers to contact us with questions about their respective rights and responsibilities under the Employee Retirement Income Security Act and to notify us when they are the victims of cross-plan offsetting or other improper practices,” said EBSA Regional Director Thomas Licetti in New York.

Under the settlement, Emblem will stop cross-plan offsetting with respect to ERISA-covered health plans and make whole all affected workers and their families who were harmed by the practice.

EBSA’s New York regional office conducted the investigation. Attorneys Amy Tai and Amanda Wilmsen of the Office of the Solicitor in New York negotiated the settlement for the department.

[View the settlement.](#)

Employers and other plan sponsors and workers can reach EBSA toll-free at 866-444-3272 for help with problems related to private sector retirement and health plans. [Learn more about EBSA.](#)

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