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## Fixed Indemnity Notice Invalidated by District Court

On December 4, 2024, the United States District Court for the Eastern District of Texas (the “District Court”) vacated the new notice requirement for fixed indemnity insurance coverage issued as a final rule by the Departments of Labor, the Treasury, and Health and Human Services (collectively, “the Departments”) on April 3, 2024. The notice requirements were set to take effect for plan years beginning on or after January 1, 2025; however, the District Court held that the Departments exceeded their rulemaking authority with the final rule. Accordingly, employers are not required to include the notice with open enrollment materials as previously required by the final rule.

### ■ Background

Under the final rule, for group fixed indemnity coverage to qualify as an excepted benefit, the plan or carrier must prominently display a notice, in at least 14-point font, on the first page of any marketing, application, and enrollment materials provided to participants at or before enrollment and reenrollment. The notice explains that the fixed indemnity policy is not health insurance and outlines the limitations of fixed indemnity insurance in addition to providing resources for more information about how to obtain comprehensive health insurance.

Model notices were provided by the Departments and many plan sponsors had already complied with the rule by including the notice with open enrollment materials for their plan years beginning on or after January 1, 2025.

### ■ Lawsuit Challenging Notice Requirement

An insurance company brought a lawsuit in the Eastern District of Texas, Manhattan Life Insurance and Annuity Co, et al v. U.S. Department of Health and Human Services et al., challenging the final rule, specifically asking the court to block the notice requirement as it exceeded the Department’s statutory authority.

In a very short decision, the District Court held in favor of the plaintiffs and ruled that the Departments could not enforce the notice requirement, finding that the compelled notice requirement exceeded the statutory authority of the Departments and “was not a logical outgrowth” from the proposed regulations.



## ■ Employer Action

The fixed indemnity notice for group coverage no longer applies. Employers and carriers are not required to furnish this notice with enrollment materials for fixed indemnity insurance policies.

