



**MassAHU's Broker Tool Box
Article 1
Release Date: July 16, 2012**

[MLR- Guidance on Rebates for Group Health Plans](#)

Distributions from health insurance issuers, such as insurance companies, to their policyholders, including employee benefit plans, take a variety of forms, including refunds, dividends, demutualization payments, rebates, and excess surplus distributions. To the extent that distributions, such as premium rebates, are considered to be plan assets, they become subject to the requirements of Title I of ERISA. Anyone with authority or control over plan assets is a “fiduciary,” as defined in section 3(21), and subject to, among other things, the fiduciary responsibility provisions of ERISA section 404 and the prohibited transaction provisions of ERISA section 406. Further, under section 403 of ERISA, plan assets generally must be held in trust, may not inure to the benefit of any employer, and must be held for the exclusive purpose of providing benefits to participants in the plan and their beneficiaries and defraying reasonable expenses of administering the plan. However, the trust requirement does not apply to any assets of a plan which consist of insurance contracts or policies issued by an insurance company qualified to do business in a State or to any assets of a plan which are held by such an insurance company. See ERISA sections 401(b)(2) and 403(b).

Full [MLR: Guidance on Rebates for Group Health Plans Paid Pursuant to the MLR Requirements](#)

