



November 15, 2016 Compliance, Update

Election Results and Obamacare

All the political pundits and pollsters had it wrong. Donald Trump is president-elect and he has criticized Obamacare from the beginning and has promised to repeal and replace the law. However, that may be easier said than done. Here are three articles that discuss that possibility and a more likely outcome.

[What Trump election means for ACA](#)
[Employers should stay the course for now](#)
[ACA post-election outlook](#)

The “bottom line” is that it is more likely than not that many provisions of the law will be eliminated but, as the second article indicates, employers should continue to comply with the law as it stands today.

Gift Giving Idea!!!!!!

With the election behind many people are turning to the holiday season to relieve some of the stress. I am pleased to announce that my book has come out again so you do not have to worry about gift giving.

[2016-2017 Welfare Benefits Guide \(aka Best Gift Ever\)](#)

This two-volume treatise makes the perfect stocking stuffer for every member of the family and is sure to bring an entire year’s worth of entertainment.

Year-End Checklist

This is an excellent year-end checklist of things to do with respect health and welfare benefit plans.

[Year-end checklist](#)

This really is one of the most comprehensive checklists I have seen and you really should spend a few minutes reading it.

Vendor Contracts

Many people sign vendor contracts without even reading them. This article talks about things to consider before signing any vendor contract.

[Know what you're signing with vendor contracts](#)

This article talks about things to consider but I do want to add a dash of reality to the discussion. Oftentimes (especially with large vendors and carriers) it is a “take it or leave it” scenario. In other words, in theory it makes sense to try to negotiate a better agreement. However, in reality, the vendor or carrier may simply be unwilling to modify their standard agreement. This is especially true the larger the vendor or carrier and the smaller the employer. Nevertheless, employers should always read any document they execute.

IRS Form 1094 and IRS Form 1095

This is the second year go-round with IRS Form 1094 and IRS Form 1095. Some employers may be wishing that with the incoming administration, there is no need to fiddle around with IRS Form 1094 and IRS Form 1095. However, that probably is not the most prudent course of action.

[Final ACA forms, instructions for 2016 1094, 1095 final instructions](#)

The deadline for distributing the forms to the employees is January 31, 2017, and March 31, 2017, for sending them to the IRS. Again, there is talk about the Trump administration not enforcing the rules but employers should not rely on that as an excuse to ignore the filing deadlines.

New PCORI Fee Amount

Many provisions in the law are indexed for inflation and the PCORI fee is one of those provisions. The government has just released the projected increase for plan years ending after October 1, 2016, and before October 1, 2017.

[IRS announces new PCORI fee](#)

Again, health care reform may be on the bubble and the PCORI fee may go away in the future but until that actually happens here are the projected numbers for next year.

Transitional Reinsurance Fee

This is the last year for the transitional reinsurance fee. The fee for 2016 is \$27 per covered life and the count has to be reported to the government by November 15th.

[Reinsurance payments](#)

The employer can pay the amount in full by January 17, 2017, or in two installments, the first being due January 17, 2017 and the final installment by November 15, 2017.

Experimental and Investigative Procedures

Most health plans exclude benefits for experimental and investigative procedures and drugs. However, there are no uniform definitions for those procedures and drugs. This article talks about the issues involved.

[Experimental treatments and ERISA](#)

This can be extremely important because you are usually talking large dollar amounts when it comes to an experimental or investigative procedure or drug. So whether or not the item is paid for under the plan can impact the plan's overall costs.

Sex Discrimination Rules Under ACA

We reported in previous newsletters the discrimination rules under health care reform prohibiting discrimination on the basis of race, color, national origin, sex, age or disability.

[Employer obligations under non-discrimination rules](#)

This is another article on the topic. This is not a new development but the article is from one of my favorite law firms so I wanted to include it in the newsletter.

Notice Checklists

Here is a handy checklist of the various notices applicable to health plans. There are a number of checklists out there but this one is pretty straightforward.

[Notice checklist](#)

It is easy to overlook something. Many small employers with fully insured health plans rely on the carrier to comply with the notice requirements. However, all employers should ensure that all the notices are, in fact, being sent out.

Hodge Podge of Rules

The Obama administration continues to issue rules on a number of topics including excepted benefits that need not comply with health care reform. Here is a summary of the latest round of those rules.

[Latest round of rules on excepted benefits](#)

As we have said throughout this newsletter, it remains to be seen how many of these rules remain in effect under the new administration. In reality, the ones stuck in the middle are employers because of the uncertainty.