

## **APRIL 2019 COMPLIANCE UPDATE**

### **WHEN DOES THE “CLOCK” START?**

The ERISA claims procedures require claimants to follow certain timelines when appealing an adverse ruling.

#### [ERISA ADMINISTRATIVE APPEAL BARRED AS UNTIMELY](#)

This court case held that the “clock” starts on the date the plaintiff got notice that her benefits were going to terminate; not on the date the benefits were actually terminated. Complying with the timelines is important and failure to comply can cause the person to forfeit benefits.

### **WILL THE CADILLAC RUN OUT OF GAS?**

The Affordable Care Act aka Obamacare imposes a 40% excess tax on high cost employer health plans. This tax will have a major impact on group health plans.

#### [CADILLAC TAX REPEAL ON THE HORIZON?](#)

The tax was supposed to kick-in last year but has been postponed until 2022. There is talk now about repealing it, rather than postponing. However, until it is repealed, this tax is scheduled to kick-in beginning in 2022.

### **TO FMLA OR NOT – THAT IS THE QUESTION**

President Clinton signed the Family and Medical Leave Act (FMLA) into law which provides certain employees up to 12 weeks of unpaid leave under certain circumstances.

#### [DOL SAYS YOU HAVE TO TAKE FMLA](#)

But what happens if an employee does not want to take the FMLA? The Department of Labor takes the position that if the leave qualifies for FMLA and the employer is aware of that, then the leave must be designated as a FMLA leave.

## **DON'T CROSS THAT LINE**

The Trump Administration has been looking for ways to reduce health premiums but, at least to date, has not been very successful. One of the proposals is to allow carriers to sell across state lines.

### [THE CHALLENGE OF SELLING HEALTH INSURANCE ACROSS STATE LINES](#)

For example, individuals in Ohio could purchase coverage that is underwritten in Utah. Although this may sound good in theory, as a practical matter, health insurance is a localized commodity. This article talks about the challenges of selling insurance across state lines.

## **QUALITY OF CARE VS COST SAVINGS – FIDUCIARY CONSIDERATIONS?**

A large third-party administrator argued in court that its policies and procedures were designed to ensure that patients receive necessary care within generally accepted standards.

### [ERISA BREACH RULING PROVIDES KEY TAKE-AWAYS](#)

However, the court ruled the TPA's main objective was to save money and this, in turn, resulted in the TPA breaching its fiduciary duty under ERISA.

## **COMBATING HIGH PRESCRIPTION DRUG COSTS**

Americans are taking more prescription drugs than ever before, and the cost continues to rise with no end in sight.

### [EMPLOYERS ARE COMBATING PRESCRIPTION COSTS](#)

This article lists 17 ways employers are trying to rein in those spiraling costs. Obviously, there is no silver bullet, but perhaps you can find a nugget you can use to help reduce your costs.

## **LEVEL FUNDING – COMPLIANCE ISSUES**

The Affordable Care Act was enacted in 2010 and has been changing the health care industry ever since it was signed into law. The insurance companies have developed products to meet their clients' needs.

### [KEEPING YOUR LEVEL-FUNDED PLAN COMPLIANT](#)

One of the more innovated products is a level-funded health plan that allows smaller employers to enjoy the benefits of being self-funded and yet provides a level of stability that usually is not available to employers sponsoring self-funded health plans. This article talks about the compliance issues associated with these programs.

## **SURPRISE – BIG MEDICAL BILLS**

Everyone likes a nice surprise, but an unexpected high medical bill does not fall into that category.

### [STATE LAWS BAN SURPRISE MEDICAL BILLS](#)

An unexpected high medical bill can bankrupt a family and the states are starting to enact laws that ban these types of charges. As of last year, 25 states have laws that preclude surprise medical bills and the trend is growing.

## **ERISA PENALTIES INCREASE**

It is great to assume you will never be penalized under ERISA and the penalties should not be the driving force when complying with the statute.

### [ADJUSTING ERISA CIVIL MONETARY PENALTIES FOR INFLATION](#)

Nevertheless, you ought to be aware of the current penalty amounts under ERISA. Again, hopefully you are always compliant, but you should at least be aware of the potential penalties. Also, as a point of comfort, the government usually does not assess the maximum amounts.

## **ACA PENALTIES INCREASE**

The Affordable Care Act requires large employers to offer full-time employee quality/affordable health coverage or pay a penalty. Those amounts increase each year. The amounts for 2019 are listed in this article.

### [ACA - 2019 LIMITS, FEES AND PENALTIES](#)

The individual mandate went away. Therefore, *individuals* are not penalized for not having health coverage. However, the *employer* mandate remains in effect.

## **ASSOCIATION HEALTH PLAN - ROUND 1 TO THE STATES**

Pursuant to President Trump's Executive Order, the Department of Labor issued final regulations last year encouraging the formation of Association Health Plans or AHPs. Several states filed a lawsuit contesting the regulations and a federal court ruled in favor of the states.

### [FEDERAL DISTRICT COURT VACATES KEY PROVISIONS OF HEALTH PLAN RULE](#)

### [THE STATES VS. DOL - ROUND ONE GOES TO THE STATES](#)

That is, the court invalidated a major portion of the final regulations. Most people believe the Trump Administration will appeal the decision but, at least for the time being, AHPs are in limbo.

## **REFRESHER ON MEDICARE SECONDARY PAYER RULES**

The Medicare Secondary Payer Rules have been around for a long time. Basically, they say that in most cases, the employer's group health plan is primary, and Medicare is the secondary payer. This article is just a brief overview of the rules. Again, they have been around for some time and this is nothing new.

### [MEDICARE SECONDARY PAYER RULES](#)

Often what happens is a person goes to the hospital and tells the hospital they have Medicare. So, the hospital bills Medicare; Medicare pays the bill and then contacts the employer, a couple of years later, to see if the person was also covered under the employer's group health plan. If that is the case, then Medicare will request the employer to reimburse Medicare.

## **ACA REPORTING ERRORS**

A previous article in this newsletter lists the employer mandate penalties for this year. Again, the employer mandate is not going away any time soon. As a result, the reporting requirements (i.e. IRS Form 1094 and IRS Form 1095) remain.

### [GUIDE TO CORRECTING ACA REPORTING MISTAKES](#)

### [HOW TO ADDRESS ACA REPORTING MISTAKES AND FAILURES](#)

How you complete and submit the IRS forms may trigger a letter from the government requesting you pay a penalty. That is, the government uses those forms to determine if they should assess a penalty. Therefore, it is important you fill out the forms properly. However, mistakes happen, and these articles talk about correcting those mistakes.

## **ACA – HERE WE GO AGAIN**

The Affordable Care Act was enacted in 2010 and has been controversial since the day it was signed into law. The Republicans have tried to repeal it time and time again but have been unsuccessful so far.

### [TRUMP ADMIN ASKS COURT TO STRIKE DOWN ENTIRE ACA](#)

The Trump Administration has made repealing the law a top priority. The latest chapter in that effort is a court case in the Fifth Circuit. The Department of Justice recently indicated to the court

that the law should be repealed in its entirety. Most people believe the court will rule that the law is valid but, when it comes to health care reform, you never know how things will end.

### **I CAN SEE CLEARLY NOW**

There is a song that has that lyric in it. However, I am referring to vision benefits. As we get older our eyesight is one of the many things that start to go.

#### [VISION: THE MUST-HAVE BENEFIT OF 2019](#)

This article talks about vision plans and says that vision benefits are becoming more popular than ever when it comes to offering a complete benefit package.

### **BENEFIT ADVOCATES ARE WORTHWHILE**

Health plans are confusing, and employees often do not fully understand their benefits. Therefore, a benefit advocate can be invaluable.

#### [SECRET TO HEALTHCARE LITERACY AND COST CONTROL](#)

Not only does this service help the employee find the best options; it can save the employer money in the end.

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