



## **SOCIAL SECURITY AND HSA CONTRIBUTIONS**

We are all getting older, and as we sign up for Social Security, you need to be aware of how that can impact your ability to make and receive HSA contributions. If you have Medicare, you are not eligible to make or receive HSA contributions.

### [BEWARE: COORDINATING HSA CONTRIBUTIONS WITH SOCIAL SECURITY BENEFITS](#)

If you sign up for Social Security benefits, you automatically are enrolled in Medicare. However, the “fly in the ointment” is that the Medicare coverage is retroactively sufficient for six months from the date your Social Security benefits begin. For example, if you contributed the maximum to your HSA for the 2019 calendar year, and sign up for Social Security benefits to begin January 1, 2020, your coverage under Medicare will have started July 1, 2019. You made an excess HSA contribution for the 2019 calendar year.

### [McGOHAN BRABENDER RECOMMENDATIONS FOR MEDICARE](#)

If you are approaching retirement age, or recently new to the Medicare experience, please feel free to contact RetireMediQ to get the answers to the questions you have. Click the link above or call directly: 1-866-600-4266, this is a free service.

## **FMLA CANNOT BE DELAYED**

The Department of Labor has opined that employers cannot delay the start of an employee’s FMLA even if there is a union contract saying the employee can use his or her paid time off first.

### [EMPLOYEES CANNOT DECLINE FMLA LEAVE- EVEN IF AGREEMENT STATES OTHERWISE](#)

This brings up an important point. Employers and unions cannot override the law. That is, they cannot enter into agreements that do not comply with any statute.

## **ANOTHER REASON NOT TO SPEED**

While going 40 miles over the posted speed limit, an employee had a car accident and died. The employee was covered under their employer’s group life and AD&D policy.

### [ACCIDENTAL DEATH BENEFIT NOT GRANTED DUE TO CRIME](#)

The employer’s carrier paid the life insurance benefit but refused to pay the additional benefits under the AD&D policy. The beneficiaries under the AD&D policy sued the carrier, but the Court said the carrier did not have to pay the benefits because the AD&D policy had an exclusion for accidental losses caused by, contributed by, or resulting from an attempt to commit or commission of a crime. Since speeding was a misdemeanor under the state law, the carrier did not have to pay the claim.

## **MEDICARE IN A NUTSHELL**

We all pay into Medicare, and most of us will rely on it once we retire and are no longer covered under an employer's group health plan. Below is an excellent article explaining the various components of Medicare.

### [EVERYTHING YOU ALWAYS WANTED TO KNOW ABOUT MEDICARE](#)

The healthcare system will be a significant talking point in the Presidential election next year, and some of the candidates are talking about Medicare For All.

## **GENETIC TESTING & HEALTH FSAs**

Everyone has seen those ads on TV about genetic testing. The ads say you should be using genetic testing to predict your future health.

### [GENETIC TESTING MAY INCLUDE MEDICAL EXPENSES](#)

The IRS recently ruled that the cost of the genetic testing attributable to DNA testing is, in fact, a medical expense and can be reimbursed under a Health FSA, in which the cost associated with information regarding ancestry is not.

## **THE END IS NOT IN SIGHT**

Health care reform, as initially enacted, was comprised of three parts. They were the health care exchanges, the individual mandate, and the employer mandate. The Trump administration and Congress eliminated the individual mandate.

### [IRS CONFIRMS ACA PAY OR PLAY PENALTIES STILL APPLY](#)

However, the health care exchanges and the employer mandate remain the law of the land, and the employer mandate penalty cannot be waived.

## **COBRA STILL HAS A BITE**

COBRA has been around for more than thirty years and has fallen off the radar screen because of all the attention devoted to health care reform.

### [COBRA NOTICE LITIGATION RESULTING IN BIG DOLLAR CLAIMS](#)

Failure to comply with COBRA can result in substantial penalties. The article talks about a lawsuit where the court assessed a penalty because the COBRA notice failed to list the Plan Administrator's address. The government has provided some sample COBRA notices, which are a good starting point for developing the employer's COBRA notices.

## **ALE OR NOT – THAT IS THE QUESTION**

A previous article confirms that the employer mandate is still the law of the land. In other words, applicable large employers (ALEs) have to provide quality/affordable coverage to full-time

employees or face a potential penalty. An ALE is an employer that employs 50 full-time/full-time equivalent employees.

### [ARE YOU CLOSE TO THE ACA 50 FULL-TIME EMPLOYEE THRESHOLD?](#)

Therefore, it is critical to determine if the employer is, in fact, an ALE. This article explains the rules for determining the employer's status and is a must-read if your workforce is hovering around the 50 employee number.

### **UPDATED 'CHIP' NOTICE**

The Children's Health Insurance Program ("CHIP") Reauthorization Act of 2009 requires employers who maintain group health plans to provide annual notification of the opportunity for premium assistance subsidies from state Medicaid or CHIP programs.

### ['CHIP' NOTICE REVISED](#)

The government has updated the notice. Ohio does not currently participate in the CHIP program, but some employers still like to provide the legal notice in case an employee resides in a participating state.

### **ICHRA NOTICE REQUIREMENTS**

A lot of ink has been devoted to ICHRAs: Individual Coverage Health Reimbursement Arrangements. ICHRAs are effective January 1, 2020, and allow employers to give money to employees on a tax-free basis. The employees can then buy individual health policies.

### [ICHRA NOTICE: WHAT ARE THE REQUIREMENTS?](#)

This article focuses on the notice requirements applicable to ICHRAs. It remains to be seen how popular ICHRAs will become, but they certainly are a new approach to providing health care to the employees.

### **HIT IS BACK**

The Health Insurance Tax or HIT was part of the Affordable Care Act. It is a tax imposed on health insurers that offer fully-insured healthcare coverage – including Medicare, Medicaid, HMOs, individual plans, and most group employer-sponsored plans. Non-fully-insured multiple employer welfare arrangements (MEWAs) are also subject to the HIT.

### [HEALTH INSURANCE TAX REINTRODUCTION IN 2020](#)

Several portions of the Affordable Care Act have been postponed; however, it appears HIT will become effective January 1, 2020.

### **FIDUCIARY BREACH MAY INCLUDE GIVING BAD ADVICE**

A Federal Court recently held that providing bad advice could constitute a fiduciary breach under ERISA.

#### [FIDUCIARY ACTS MAY INCLUDE FAILING TO ADVISE PARTICIPANTS AND BENEFICIARIES](#)

Even before this ruling, you always should ensure the information is accurate when presented to a plan participant.

#### **SOCIAL SECURITY WAGE BASE FOR 2020**

The amount of wages subject to Social Security taxes adjusts for inflation. The 2020 limit will be \$132,900, which is a \$4,800 increase from 2019.

#### [SOCIAL SECURITY BENEFIT INCREASE FOR 2020](#)

The Social Security benefit also changes each year. Next year's amount will be released later this year and posted on the above link.

#### **WELFARE BENEFIT PLAN CHECKLIST**

There are tons of checklists out there, and this is just another one. It seems pretty comprehensive, so it is worth a quick read.

#### [2019 WELFARE PLAN AUTOMATIC PARTICIPANT DISCLOSURE CHECKLIST](#)

As a practical matter, most of the required notices are in the certificate of coverage prepared by the carrier or third-party administrator.

#### **MEDICARE PART D NOTICES**

There is some confusion regarding the Medicare Part D Notice requirements for the employees. There are a ton of notifications stating the notice has to be distributed before October 15th. However, that is not the case. If the Medicare Part D documentation is distributed at the same time each year, e.g. with open enrollment materials, there is no need to do a separate notice distribution in October.

#### [ANNUAL MEDICARE PART D ONLINE DISCLOSURE TO CMS](#)

Pay particular attention to this paragraph in the article:

“If an employer distributed the notice during their open enrollment, sometime within the 12 months prior to October 15, the notice obligation to employees has been satisfied and another notice need not be distributed.”

Note: The deadline for the notice to the government, i.e. CMS, is written in stone and has to be completed within 60 days of the start of the plan year. However, that strict deadline does not apply to the notice to employees. Again, if the notice to the employees is included in the open enrollment materials that are distributed at the same time each year, there is no need to do a

separate notice in October. It would be best if you read the entire article to see the other rules regarding the notification.

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