



NOVEMBER 2019 COMPLIANCE UPDATE

HOLIDAY SEASON

Keeping with such traditions as eggnog and mistletoe, the 2019-2020 edition of my book (The Welfare Benefits Guide) has just been released.

[WELFARE BENEFITS GUIDE TO HEALTH PLANS BY PAUL J. ROUTH](#)

What better way to spend the Holidays with family and friends than sitting around the fireplace reading my book? Order your copy now to avoid the rush. Also, the book makes a great stocking stuffer, so order a couple of extra copies for those on your gift-giving list.

ANNUAL INFLATIONARY NUMBERS

Several provisions in the Internal Revenue Code adjust annually to account for inflation.

[2020 BENEFIT CONTRIBUTION LIMITS](#)

The IRS just released to the new Health FSA Limit for next year. Again, this is an annual event and it merely takes inflation into account.

IRS ISSUES MORE GUIDANCE FOR ICHRAs

One of the most significant changes effective January 1, 2020, is the ability for all size employers to offer Individual Coverage HRAs or ICHRAs. This coverage allows employers to provide employees tax-free money to buy individual health policies.

[TREASURE AND IRS PROPOSED INDIVIDUAL COVERAGE HRA AFFORDABILITY SAFE HARBORS](#)

[HRA REGULATIONS- MORE ON THE EMPLOYER SHARED RESPONSIBILITY MANDATE](#)

The government continues to issue guidance on how the ICHRAs will work. It remains to be seen how many employers will adopt these programs. Perhaps over time, they will become popular.

HOT TOPICS FOR 2020

With so many things to think about as this year comes to an end, it is easy to postpone planning for next year.

[HOT TOPICS IN EMPLOYEE BENEFITS: WHAT WE ARE SEEING](#)

However, this is an informative article from a major law firm listing some hot legal topics for next year.

ACTIVE VS. PASSIVE ENROLLMENT

There has always been a debate on whether to hold an active enrollment vs. a passive enrollment. Under an active enrollment scenario, employees must re-enroll in their benefits each year. Whereas with passive enrollment, the employees' current elections roll over from year to year unless they make a confirming change.

[PROS AND CONS OF ACTIVE VERSUS PASSIVE OPEN ENROLLMENT](#)

Each approach has its pros and cons. This article highlights the advantages and disadvantages of each option.

IS IT REALLY VOLUNTARY?

ERISA governs welfare benefit plans (e.g., health, life, etc.) However, "voluntary" plans are exempt from ERISA. Therefore, the \$64 question is whether a particular benefit is, in fact, voluntary and exempt from ERISA?

[IS YOUR VOLUNTARY BENEFIT PROGRAM REALLY EXEMPT FROM ERISA?](#)

This article does a nice job outlining the rules governing voluntary plans under ERISA. Whether or not a particular benefit program is exempt under ERISA because it is a voluntary program is based entirely on the facts.

NEW DISCLOSURE RULES FOR RETIREMENT PLANS

We rarely report on issues involving retirement plans. However, I thought I would include this article regarding new disclosure rules applicable to retirement plans.

[NEW ELECTRONIC DISCLOSURE RULES FOR RETIREMENT PLANS](#)

The Department of Labor has issued new proposed rules governing the electronic distribution of retirement plan documents. Note: the rules only apply to retirement. The current rules governing the electronic distribution of documents for welfare benefit plans are unchanged.

HSA PRIMER

High deductible health plans and health saving accounts have been around for a while and have become pretty popular.

[HEALTH SAVINGS ACCOUNTS: THE ULTIMATE GUIDE](#)

[KEY HSA FEATURES - 2020 COMPLIANCE](#)

These are pretty good pieces that talk about many of the aspects of HSAs. They are good refresher courses on the topic.

UPDATED SBC – JANUARY 1, 2021

In an effort to make patients better health consumers, the Affordable Care Act requires health plans to distribute a uniform 4-page summary called a Summary of Benefits and Coverage or SBC.

[CMS.GOV - SBC RESOURCE](#)

The government has updated the template. However, the new template does not become effective until January 1, **2021**. So we have plenty of time.

FOLLOW THOSE TIMELINES

ERISA imposes strict timelines when it comes to adjudicating claims and appeals. Those timelines can vary depending on the type of plan (e.g., health plan vs. disability plan) and the type of claim (e.g., urgent medical vs. post-service medical).

[LTD CLAIM DENIAL SUBJECT TO STRICTER REVIEW DUE TO UNTIMELY DECISION](#)

Failure to follow the timelines can impact the court's decision if ever litigated. The court will likely rule in favor of the plan participant if the employer failed to comply with the timelines for deciding the claim and all the appeals.

IRS ISSUES MORE GUIDANCE REGARDING THE EMPLOYER MANDATE

The Affordable Care Act (aka Obamacare) was enacted in 2010, and the government continues to increase its enforcement efforts. As part of that effort, the IRS is mailing out letters to employers regarding the employer mandate.

[UNDERSTANDING YOUR CP233J NOTICE](#)

If you are unlucky enough to receive such a letter, you must respond in a timely manner. **Do not ignore it.** The IRS has developed a webpage (see above) explaining how to respond to the letter.

YEAR END PLANNING

Year end is fast approaching and now is the time to ensure all the T's are crossed and the I's are dotted.

[2019 EOY PLAN SPONSOR "TO DO" LIST - HEALTH & WELFARE](#)

This is a really in-depth article on year-end issues involving group health plans and other non-retirement benefits.

2019 HEALTH COST SURVEY

There are a million different surveys on a million different topics. I caution people whenever they read a survey, it is important to see who is publishing the survey and who paid for it. Having said that, there may be a nugget to be found in any survey.

[2019 EMPLOYER HEALTH BENEFITS ANNUAL SUMMARY](#)

This is an extremely long survey that covers a variety of health care topics. So, I include, in hopes that you find your nugget of information.

ANOTHER COST SAVING OPTION

Ever since the beginning of time (or at least in recent memory), employers and others have been looking for ways to save money when it comes to health care spending.

[EMPLOYER PLANS AREN'T EMBRACING NARROW NETWORKS](#)

This concept is not new, but this article talks about a health plan in Texas that has a narrow network. It is an interesting read, and the concept may catch on in other places.

HOW TO ADDRESS THE ASSIGNMENT OF BENEFIT ISSUE

At least in this area, the major carriers have pretty broad provider networks. So the issue does not come up that often.

[BEST PRACTICES IN ADMINISTERING CLAIMS - DEALING WITH BENEFIT ASSIGNMENTS](#)

However, if there is a non-network provider involved, the issue regarding the assignment of benefits can come into play. What happens is that the provider will ask the patient to assign their rights under the plan to the provider so the provider can sue the plan directly. This article talks about how plans can deal with this issue.

WHERE O'WHERE SHOULD I GO?

President Ford signed ERISA into law in 1974. ERISA is a Federal law that governs most aspects of employee benefit plans.

[CHOICE OF LAW PROVISIONS IN ERISA PLANS WILL NOT RESULT IN UNIFORMITY](#)

One area that is not governed by ERISA is the choice of the venue. That is, where a lawsuit has to be filed and what state laws will oversee the process. Many plan-sponsors list the controlling state in the document, but the Department of Labor opposes this practice. The US Supreme Court will likely decide the issue.

HPID REPEALED

You are probably asking, "What is the HPID?" It stands for Health Plan Identifier, which was part of the Affordable Care Act.

[REMEMBER THE HPID REQUIREMENT? NOW YOU CAN FORGET IT](#)

The HPID required health plans to get a unique ID number to be used when it came to standard transactions. However, the concept never caught on, and the government recently repealed the requirement altogether.

HDHPs FAILING OUT OF GRACE?

High Deductible Health Plans (HDHPs) and Health Savings Accounts (HSAs) have been the rage in the health care arena. The premiums for the HDHP are lower than the traditional PPO plans because the deductibles are higher.

[EMPLOYERS ARE SCALING BACK THEIR DEPENDENCE ON HDHP PLANS](#)

This recent survey states that employers are starting to go back to traditional health plans and offering employees a choice between an HDHP and more traditional plans.

RETIREDiQ: MEDICARE INFORMATION FOR YOUR EMPLOYEES

Your employees want information about Medicare, and they want you to provide it. We don't expect you to know all the answers about Medicare, but you can direct your employees to RetireMediQ and satisfy their request.

[HOW CAN RETIREMEDIQ HELP BUSINESSES?](#)

[INFORMATION TO SHARE WITH EMPLOYEES WORKING PAST AGE 65](#)

Don't assume they know what needs to be done. Steer them to RetireMEDIQ, and they will find the answers they need as they approach the magic age of 65.

THEY'RE BACK!!!!

The employer mandate penalty requires large employers (those with 50 or more full-time employees and full-time equivalent employees) to offer quality/affordable health coverage to full-time employees (those working at least 30 hours per week) and their dependents or pay a potential penalty.

[2019 INSTRUCTIONS FOR FORMS 1094-C AND 1095-C WITH VIRTUALLY NO CHANGES](#)

Large employers have to prepare, distribute, and file annual reports (IRS Form 1094-C and IRS Form 1095-C) each year so the government can enforce the employer mandate. The employer has to prepare the forms, distribute them to the employees, and file them with the government. This process is nothing new, but the government just released draft versions of the 2019 forms.

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