

IN THE KNOW

Bulletins for Benefits & HR Professionals



January 19, 2022

You Can Go Home Again: Agencies Release New Group Health Plan Coverage Requirements for COVID-19 Tests

“Plan sponsors will want to contact their pharmacy benefit managers or other networks in short order to determine whether they have a direct coverage solution that will satisfy the safe harbor requirements and allow the plan to impose a dollar limitation on out-of-network costs.”

[Full Article](#)

Proskauer



Understanding the 'No Surprises' Rules

“The ‘No Surprises’ Rules also introduce a negotiation and dispute resolution process for situations where the health plan and provider do not agree that the plan's ordinary payment is appropriate. The rules set a strong presumption as to the amount. The rules include information that plans will need to provide to participants about the expected costs and benefits for a service subject to the rules. This requirement is delayed, pending further guidance.”

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Eighth Circuit Concludes That ERISA Does Not Preempt State Law Regulating PBMs

“This was a fairly straightforward application of the Supreme Court's Rutledge ruling, which held that ERISA does not preempt state laws that merely increase costs or alter incentives for ERISA plans. While these cases involved PBM laws, this line of reasoning could apply to other state laws governing entities or processes that have some relationship to ERISA plans, such as laws regulating TPAs and other service providers.”

[Full Article](#)

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ERISA

Eleventh Circuit Highlights Importance of Unambiguous Disclaimers in SPDs

“At times, Allstate made representations to employees, both orally and in writing, that their retirement life insurance benefits were 'paid up' or 'for life.' Because the SPDs unambiguously gave Allstate the right to change, amend, or terminate the plan at any time, and expressly clarified that employees had no vested rights under the plan, the appellate court agreed with the district court that plaintiffs failed to establish that benefits were actually 'due' under 'the terms of the plan' for purposes of ERISA Section 502(a)(1)(B).”

[Full Article](#)

Jackson Lewis P.C.

Supreme Court Characterizes ETS as Public Health Measure Outside of OSHA's Jurisdiction



“The Court asserted that OSHA has failed to show evidence of 'grave danger' in many industries, and absolves employers of the requirement to ensure that unvaccinated employees engage in weekly testing. With the ETS set to expire in May, it is unclear whether it will ever become law and again be enforced. The government will need to determine whether to continue to press its merits case at the Sixth Circuit before a possible return engagement with the Supreme Court.”

[Full Article](#)

Seyfarth Shaw LLP

DOL Increases Civil Money Penalties for 2022

“A table reflects the DOL's 2022 annual inflation adjustments to the civil money penalties for violations of certain requirements under ERISA, effective January 15, 2022.”

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