

IN THE KNOW

Bulletins for Benefits & HR Professionals



July 7, 2022

FTC Votes to Examine PBM Practices

“The Commission is particularly concerned that PBMs' efforts to realize maximum levels of manufacturer-paid rebates and fees (some or all of which are retained by the PBM) result in PBMs preferring higher cost, brand (i.e., patented) drug products on their formularies. The Commission is concerned that such PBM and manufacturer practices diminish the competitive market effect that lower-cost biosimilars and generic drugs would otherwise be having on overall drug pricing.” [Full Article](#)

Wiley Rein LLP



Big Employers Are Offering Abortion Benefits. Will the Information Stay Safe?

“Human resources departments are required to keep some medical data closely held, but a determined law enforcement agent with a search warrant or subpoena could ultimately get access to patient data. That will complicate life for the dozens of corporations promising to protect, or even expand, the abortion benefits for employees and their dependents.” [Full Article](#)

Kaiser Health News

In This Issue

Page 1

FTC Votes to Examine PBM Practices

Wiley Rein LLP

Big Employers Are Offering Abortion Benefits. Will the Information Stay Safe?

Kaiser Health News

Page 2

Post-Dobbs: FAQs for Employers and Other Benefit Plan Sponsors

Proskauer

Health Plan's Exclusion of Gender Affirming Care Violates Title VII and U.S. Constitution

Thomson Reuters/EBIA

The Eleventh Circuit Says – Correctly – That the Widow of a Deceased Employee Can Recover Life Insurance Benefits Even Though the Deceased Employee Was Never Enrolled in the Plan Due to the Plan Administrator's Mistakes

Stephen Rosenberg of The Wagner Law Group

Secretaries Becerra, Walsh and Yellen Underscore Contraceptive Coverage Mandate for Private Insurance

U.S. Department of Health and Human Services

Post-Dobbs: FAQs for Employers and Other Benefit Plan Sponsors

"Can a group health plan reimburse travel expenses in excess of the applicable IRS limits? Do plan sponsors have to consider mental health parity concerns when adding travel benefits to access reproductive coverage? Can employers just 'pay as you go' outside a group health plan, and offer ad-hoc taxable reimbursements of travel expenses to access reproductive care? Can a separate health reimbursement arrangement (HRA) be created solely for reimbursing travel expenses to access reproductive care? Does Dobbs impact infertility benefit coverage under a group health plan?" [Full Article](#)

Proskauer



Health Plan's Exclusion of Gender Affirming Care Violates Title VII and U.S. Constitution

"The trial court found that the plan's exclusion discriminated based on sex and transgender status in violation of the U.S. Constitution's Equal Protection Clause and because of sex in violation of Title VII of the Civil Rights Act of 1964. The court declined to rule on claims alleged under ACA Section 1557, pending the issuance of proposed regulations."

[Full Article](#)

Thomson Reuters/EBIA

The Eleventh Circuit Says – Correctly – That the Widow of a Deceased Employee Can Recover Life Insurance Benefits Even Though the Deceased Employee Was Never Enrolled in the Plan Due to the Plan Administrator's Mistakes

"District courts have come to accept the premise that, in light of the Supreme Court's recognition in *Amara* of equitable remedies for fiduciary errors, the value of the absent life insurance benefits should be recoverable as equitable relief independent of the plan and the lack of coverage for that amount under

the plan itself. The acceptance of this premise has now progressed to the Circuit Court of Appeal level." [Full Article](#)

Stephen Rosenberg of The Wagner Law Group



Secretaries Becerra, Walsh and Yellen Underscore Contraceptive Coverage Mandate for Private Insurance

"In all fifty states, the ACA guarantees coverage of women's preventive services, including free birth control and contraceptive counseling, for individuals and covered dependents. Recent reports have shown that some issuers and plans may not be appropriately providing this coverage. The letter is another step for the Departments to put the industry on notice for the required coverage and demand prompt action to ensure that people can rightfully access the birth control they need." [Full Article](#)

U.S. Department of Health and Human Services