

Weekly Digest

• August 31, 2022 •



EMPLOYEE
BENEFITS

Federal Officials Revise Approach to Arbitration Under No Surprises Act

"The final rule's most significant change is elimination of the 'rebuttable presumption' in favor of the QPA, a part of the interim final rule that has been the subject of eight lawsuits from providers and two court decisions thus far.... The final rule ... does not dictate which offer the IDR entity should select. It instead focuses on the process that IDR entities should use when choosing between two competing offers." [Full Article](#)

Health Affairs

In This Digest

PAGE 1

Federal Officials Revise Approach to Arbitration Under No Surprises Act

By, Health Affairs

Inflation Reduction Act Indirectly Impacts Employer-Sponsored Group Health Plans

By, Thomson Reuters / EBIA

PAGE 2

Employers May Have to Pay More in 2023 as Affordability Threshold Hits New Low

By, Seyfarth

HHS Again Proposes Nondiscrimination Regs Under Section 1557 of the ACA

By, The Wagner Law Group

Two Recent Cases Provide Important ERISA Reminders

By, Foley & Lardner LLP

IRS Ignoring Clear Requirements of IRC Section 4980H When Issuing Employer Mandate Penalties - Violating Employers Due Process Rights

By, Accord



Inflation Reduction Act Indirectly Impacts Employer-Sponsored Group Health Plans

"Expanded eligibility for the premium tax credits could increase penalty exposure for ALEs that do not offer affordable, minimum-value coverage to all full-time employees. The improvement to Medicare Part D drug coverage may affect the analysis of whether employer-sponsored prescription drug coverage is 'creditable,' i.e., at least as good as standard Part D prescription drug coverage." [Full Article](#)

Thomson Reuters / EBIA

Page 1

Employers May Have to Pay More in 2023 as Affordability Threshold Hits New Low

"For plan years beginning in 2023, a plan will meet the ACA affordability requirement under the FPL safe harbor if an employee's required contribution for self-only coverage does not exceed \$103.28 per month." [Full Article](#)

Seyfarth

HHS Again Proposes Nondiscrimination Regs Under Section 1557 of the ACA

"While gender identity and sexual orientation protections are a primary focus of the proposed regulations, along with protections for disabled individuals and individuals with limited English proficiency (LEP), a number of other issues are addressed, including several for which HHS has requested comments." [Full Article](#)

The Wagner Law Group



Two Recent Cases Provide Important ERISA Reminders

"The reminders in one recent case are: [1] the DOL does audit many plans of many sizes, and [2] blatantly ignoring the requirements of ERISA when administering or amending an ERISA plan or the advice of your counsel and other advisors on the hope that you will not be audited is not prudent or smart." [Full Article](#)

Foley & Lardner LLP



IRS Ignoring Clear Requirements of IRC Section 4980H When Issuing Employer Mandate Penalties - Violating Employers Due Process Rights

"One issue that has been percolating since the IRS began enforcing the employer mandate penalties under Internal Revenue Code section 4980H in late 2017 is whether the IRS even had the authority to do so in light of the fact that very few section 1411 notices were ever provided to employers." [Full Article](#)

[Full Article](#)

Accord