

Weekly Digest

• October 6, 2023 •

EMPLOYEE
BENEFITS

Action Steps Health Plans Should Take Now in Response to New DOL Guidance on Mental Health Parity

"In addition to providing details regarding what needs to be included in the written [nonquantitative treatment limitations] analysis, the Departments take the time in the Proposed Rules to highlight several problematic plan terms and areas of common noncompliance. The following are several action steps that health plans should take today, before the Departments issue final rules, to avoid compliance issues down the road." [Full Article](#)

Foley & Lardner LLP



COBRA Notice Litigation Update: Recent Decision Signals Some Skepticism of Plaintiffs' Claims

"Despite the sheer volume of COBRA notice cases, courts have issued relatively little guidance on the merits of the plaintiffs' claims.... Based on the decisions and proceedings to date, below are some trends indicating that, although COBRA notice litigation may present a risk for plan sponsors, there are also multiple potential merits and class-based defenses available to defendants." [Full Article](#)

Groom Law Group

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Save Billions or Stick with Humira? Drug Brokers Steer Americans to the Costly Choice

"For real competition to take hold, the big pharmacy benefit managers, or PBMs, the companies that negotiate prices and set the prescription drug menu for 80% of insured patients in the United States, would have to position the new drugs favorably in health plans. They haven't, though the logic for doing so seems plain." [Full Article](#)

KFF Health News



Fiduciary Governance: Managing Increasing Health and Welfare Fiduciary Risks

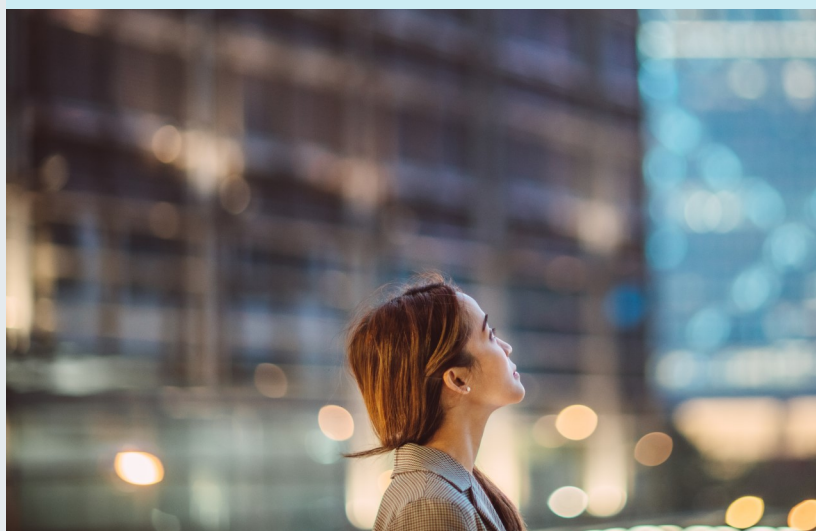
"Take action now to stave off the pending surge in class action litigation against health and welfare plan sponsors and fiduciaries. Plaintiffs' firms are actively looking for potential employee plaintiffs who participate in group health plans.... Manage risks by establishing a health and welfare plan fiduciary committee to conduct formal, well-documented processes to monitor health plan activities and service provider performance and fees." [Full Article](#)

Nixon Peabody

Gag Clause Attestations Due December 31, 2023

"If you sponsor a group health plan, make sure you set a calendar alert before the winter holidays to submit the annual gag clause prohibition compliance attestation. Under the Consolidated Appropriations Act of 2021 (CAA), group health plans and health insurance issuers are prohibited from entering into agreements with service providers restricting certain information that the plan may make available to another party." [Full Article](#)

Graydon Head & Ritchey LLP



One Year Later, Where are the 'Transparency in Coverage' Compliance Studies?

"[The authors] posit that this lack of compliance monitoring is not for lack of interest but rather because of the complexity of the landscape to which the regulation applies. As such, in this piece, we lay the groundwork for compliance studies by outlining the agencies responsible for enforcing compliance with the TiC rule, delineating the universe of entities that are required to comply with it, and discussing how compliance might be assessed." [Full Article](#)

Health Affairs Forefront

Simplify Compliance