

Weekly Digest

• May 10, 2024 •

EMPLOYEE
BENEFITS

The ERISA Edit: Fourth Circuit Addresses Constitutionality of Gender-Affirming Care Coverage Exclusions

"The plans cover the treatments for certain diagnoses but bar coverage for a diagnosis unique to transgender patients. According to the majority, the plans discriminated on the basis of sex and gender identity and failed to meet the heightened level of scrutiny required to constitutionally justify such discrimination." [Full Article](#)

Miller & Chevalier Chartered



HHS Finalizes Changes with Respect to Strengthening the Privacy of Reproductive Health Care Information Under HIPAA

"The Final Rule modifies the Privacy Rule to limit circumstances in which an individual's PHI about reproductive health care may be used or disclosed for non-health care purposes, particularly where such use or disclosure could detrimentally impact the individual's privacy or their trust in their health care providers. The PHI covered by the Final Rule includes information related to reproductive health care services—including patients' receipt of contraception, management of pregnancy and pregnancy-related conditions, miscarriage management, pregnancy termination, fertility or infertility diagnosis and treatment, assistive reproductive technology, and other diagnoses, treatment and care that affect the reproductive system—that was lawfully obtained." [Full Article](#)

Ropes & Gray, LLP

In This Digest

PAGE 1

The ERISA Edit: Fourth Circuit Addresses Constitutionality of Gender-Affirming Care Coverage Exclusions

By, Miller & Chevalier Chartered

HHS Finalizes Changes with Respect to Strengthening the Privacy of Reproductive Health Care Information Under HIPAA

By, Ropes & Gray, LLP

PAGE 2

The Health Plan Fiduciary Maze: New Lawsuit Highlights Need to Navigate Carefully in the Era of Transparency

By, Bricker Graydon, LLP

Ninth Circuit Court of Appeals Clarifies Pleading Standards Applicable to Suits for Violations of the Mental Health Parity and Addiction Equity Act

By, Trucker Huss, APC

Fact Sheet: Department of Labor Rescinds Invalidated Rule on Association Health Plans

By, Employee Benefits Security Administration [EBSA], U.S. Department of Labor [DOL]

Vital Statistics on Flexible Spending Accounts, 2022: Forfeitures on the Rise

By, Employee Benefit Research Institute

The Health Plan Fiduciary Maze: New Lawsuit Highlights Need to Navigate Carefully in the Era of Transparency

“According to the suit, Mayo and Medica did not provide accurate information to participants on how they calculate out-of-network reimbursement costs and deductibles. Additionally, the suit alleges that the online employee benefits portal provided inaccurate information on the plan’s provider network, leading members to seek care from out-of-network providers.” [Full Article](#)

Bricker Graydon, LLP



Ninth Circuit Court of Appeals Clarifies Pleading Standards Applicable to Suits for Violations of the Mental Health Parity and Addiction Equity Act

“In light of the relatively low pleading standard the Ninth Circuit has set, group health plans and their sponsors, administrators and fiduciaries should pay careful attention to the internal processes they utilize in determining coverage for MH/SUD benefits as compared to M/S benefits. The Ninth Circuit's ruling may significantly impact the health care industry, especially with proposed MHPAEA regulations anticipated to be finalized this year.” [Full Article](#)

Trucker Huss, APC

Fact Sheet: Department of Labor Rescinds Invalidated Rule on Association Health Plans

“The Department determined that the core provisions of the 2018 AHP Rule were, at a minimum, not consistent with the best reading of ERISA's statutory requirements governing the definition of 'employer' for purposes of establishing group health plans. The final rule removes section 2510.3-5 from Chapter 29 of the Code of Federal Regulations and makes conforming amendments to section 2510.3-3.” [Full Article](#)

Employee Benefits Security Administration [EBSA], U.S. Department of Labor [DOL]



Vital Statistics on Flexible Spending Accounts, 2022: Forfeitures on the Rise

“There is a lack of comprehensive account-level data on how workers use their flexible spending accounts (FSAs). In this Issue Brief, we analyze EBRI’s FSA Database to shine a light on these common but under-researched accounts. The average FSA contribution in 2022 was \$1,291. The vast majority — 85 percent — of accountholders took a distribution in 2022. Among those who did, the average distribution was \$1,323.” [Full Article](#)

Employee Benefit Research Institute