

Weekly Digest

• December 9, 2024 •

EMPLOYEE
BENEFITS

Top Three Pharmacy Benefit Managers Will Face FTC in Joint Trial for Insulin Rebate Cases

"The case alleges that the three largest PBMs—Caremark, Express Scripts and OptumRX—used unfair rebate schemes to artificially inflate the price of insulin. In mid-October, the PBMs each moved for separate proceedings, arguing that a consolidated trial could create confusion. The judge held that the factual differences in each of the cases were 'minimal and manageable.'" [Full Article](#)

Duane Morris, LLP



Are Weight-Loss Drugs Subject to the ACA Preventive Health Services Mandate?

"Drugs such as glucagon-like peptide 1 (GLP-1) agonists (including Ozempic) that may be prescribed for weight loss are not currently included in the mandate. HHS's website lists the preventive items and services that must be covered." [Full Article](#)

Thomson Reuters / EBIA

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Reminder to Employers: Don't Get Burned by a Non-Compliant Smoker's Surcharge

"[1] Individuals must be given the opportunity to qualify for the reward under the program at least once per year; [2] The size of the reward (or penalty) is limited to a percentage of the total cost of coverage; [3] The program must be reasonably designed to promote health or prevent disease; [4] The full reward must be available to all individuals who complete the reasonable alternative standard; [5] The employer must provide notice of availability of the reasonable alternative standard in program materials." [Full Article](#)

Ice Miller, LLP



The ERISA Edit: Health Plan Excessive Fee Litigation Against TPAs Continues

"Owens & Minor alleges that its review of the Plan's claims data reveals that Anthem, an alleged functional fiduciary of the Plan, violated its duties to the Plan in myriad ways, including by [1] causing the Plan to overpay claims or pay claims multiple times; [2] pocketing rebates and provider discounts that should have benefitted the Plan; and [3] agreeing to less favorable terms with providers for self-insured plans in order to benefit its fully insured business. The complaint supplements the ERISA claims with state law causes of action for breach of contract, breach of fiduciary duty and the duty of good faith, and fraud." [Full Article](#)

Miller & Chevalier Chartered

Stakeholder Letter to Congress Urging Extension of Telehealth Flexibilities

"Without congressional action, employers will be required to charge employees more to access telehealth services, creating a barrier to care, including tele-mental health treatment." [Full Article](#)

228 Employers, Professional Organizations and other Stakeholders



Private Health Plans: Comparison of Employer-Sponsored Plans to Healthcare.gov Marketplace Plans

"GAO compared monthly premiums per covered individual for employer-sponsored and Marketplace plans and found that in 2022, the estimated average monthly premiums for employer-sponsored plans were lower than the average premiums for Marketplace plans. After employer contributions to employee premiums and federal premium tax credits for Marketplace plans, the average estimated monthly enrollee contributions to premiums per covered individual for employer-sponsored plans were higher than the average enrollee contributions to premiums for Marketplace plans. Taxes complicate comparability because enrollee contributions to employer-sponsored plans do not reflect their cost after tax savings." [Full Article](#)

U.S. Government Accountability Office (GAO)