



Compliance Corner

October 3, 2017

Health Care Reform

Senate Rejects Graham-Cassidy Proposal to Repeal and Replace the PPACA

On Sept. 26, 2017, Senate Majority Leader Mitch McConnell announced that the Senate will not be holding a vote on the Graham-Cassidy plan to repeal and replace the PPACA due to dwindling support. Senators Lindsey Graham (R-SC) and Bill Cassidy (R-LA) unveiled a revised version of their legislation to repeal and replace the PPACA in hopes of winning a few more votes, before the reconciliation clock ran out on Sept. 30, 2017. Those hopes were dashed when a preliminary Congressional Budget Office (CBO) report said that the proposed bill would result in millions fewer people having comprehensive health insurance and when pivotal Republican senators declared their opposition.

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IRS Releases Final 2017 Forms 1094-C & 1095-C

On Sept. 28, 2017, the IRS released final forms related to IRC Section 6056 reporting. The instructions are still in draft format. The final forms appear to have no substantial changes from the 2016 forms.

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IRS Releases Final 2017 Forms 1094-B & 1095-B

Announcements

Podcast Episode 17: Pros and Cons of Selling Insurance Across State Lines

In this episode, Suzanne Spradley and Chase Cannon give a quick recap on the failed Graham-Cassidy bill, which was the latest (and likely last) attempt by Senate GOP leaders to repeal and replace the ACA via the Senate's budget reconciliation process for 2017.

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Final Reminder: Medicare Part D Notice to Employees Deadline is Oct. 14, 2017

Employers must notify individuals who are eligible to participate in their medical plan whether the plan's prescription drug coverage is "creditable" or "non-creditable" as compared to Medicare Part D coverage.

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District Court Orders Departments to Clarify Rules for Emergency Services

On Aug. 31, 2017, the U.S. District Court for D.C. issued a ruling in *American College of Emergency Physicians v. Price*, Civ. No. 16-913 (D.D.C., Aug. 31, 2017), related to the ACA's mandated coverage of emergency health services. As background, the Emergency Medical Treatment and Labor Act requires hospitals and emergency departments to provide medical examination, treatment or facility transfer to individuals who have an emergency medical condition.

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IRS Releases Publication 5164, Test Package for 2017 Electronic PPACA Filers

The IRS has released Publication 5164, *Test Package for Electronic Filers of Affordable Care Act (ACA) Information Returns (AIR)*, for tax year 2017 (processing year 2018). The publication describes the testing procedures that must be completed by those filing electronic PPACA returns with the IRS, specifically Forms 1094-B, 1095-B, 1094-C and 1095-C. As a reminder, those who are filing 250 or more forms are required to file electronically with the IRS.

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Federal Updates

IRS and DOL Publish Additional Guidance for Those Impacted by Hurricane Irma

The IRS and DOL have issued further guidance regarding relief available to those individuals impacted by Hurricane Irma. The IRS had offered extensions in relation to certain tax filing deadlines for any individual or business in an area designated by the Federal Emergency Management Agency (FEMA) as qualifying for individual assistance. Previous notices had identified parts of Florida, Puerto Rico and the

Save the Date: October Webinar Miniseries on State Leave Laws in D.C. and CA

NFP's Benefits Compliance team has commenced the October webinar miniseries focused on the leave laws of three particularly burdensome states: New York, the District of Columbia and California. For NY, a new paid family leave law takes effect on Jan. 1, 2018. D.C. and CA also have new laws that may impact any employer located or doing business in those states. Remaining webinars for D.C. and CA are Oct. 9 and Oct. 16, 2017, at 3:00 p.m. ET, and will last approximately one hour. Join us as we outline the rules in those states, including their impact on out-of-state employers.

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November Webinar Series – Register Now

NFP's Benefits Compliance team is hosting its next series of webinars in November. Training dates are Nov. 1, Nov. 8 and Nov. 15, 2017, at 3:00 p.m. ET. The respective topics are "Open Enrollment Training Camp," "Plan Sponsors, Beware: Practical Take-Aways from Recent Litigation and Government Guidance" and "Health Care Reform: 2018 and Beyond."

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State Updates

 [Minnesota Read Update »](#)

U.S. Virgin Islands as being eligible. This has now been expanded to include all of Florida and Georgia (for Georgia, the relief began on Sept. 7, 2017).

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IRS Announces Special Per Diem Rates for Travel Away from Home on or After Oct. 1, 2017

On Sept. 25, 2017, the IRS released special per diem rates for travel away from home expenses incurred on or after Oct. 1, 2017. Per diem rates are essentially fixed amounts paid to employees to compensate for expenses incurred while traveling instead of itemizing actual expenses. If employers use these rates to set per diem allowances, they can treat the amount of certain categories of travel expenses as substantiated without making employees prove the actual amounts they've spent. However, for the amount to be considered substantiated, it has to be the lowest of the allowance actually paid or the per diem rate for the same type of expenses.

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Seventh Circuit: Long-Term Leave Is Not a Reasonable Accommodation Under the ADA

On Sept. 20, 2017, the U.S. Court of Appeals for the Seventh Circuit ruled in *Severson v. Heartland Woodcraft, Inc.*, No. 15-3754 (7th Cir. Sept. 20, 2017), that an employer who failed to provide long-term leave as an accommodation did not violate the Americans with Disabilities Act (ADA). Instead, the Court reasoned that "a long-term leave of absence cannot be a reasonable accommodation" under the ADA.

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Retirement Updates

IRS Releases September Issue of *Employee Plans News*

On Sep. 21, 2017, the IRS released the September edition of *Employee Plans News*. This edition includes multiple resources that employers can reference for compliance assistance. Specifically, the edition includes guidance for

FAQ

We offer a telemedicine program as part of our employee benefits package. Does this program make our employees ineligible to participate in the HSA?

[Read the Answer »](#)

Reference

Commonly Used Acronyms

[Glossary »](#)

pre-approved 403(b) plans, which allows employers to adopt an effective date addendum to depict plan operational changes. As background, employers may have adopted certain changes that occurred at different points of time. This guidance allows employers to list those effective dates, even though they are different than the plan's general effective date.

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IRS Releases Draft Form and Instructions for Form 5500-EZ

On Sept. 8, 2017, the IRS released the draft 2017 Form 5500-EZ. Then, on Sept. 20, 2017, the IRS released draft instructions for the Form. As a reminder, Form 5500-EZ is used by a one-participant retirement plan or a foreign retirement plan that does not file electronically on Form 5500-SF.

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