



Compliance Corner

January 11, 2017

Health Care Reform

CMS Issues Fact Sheet on Pre-Enrollment Verification of Special Enrollment Periods

On Dec. 12, 2016, CMS issued a fact sheet regarding a pilot program to implement a marketplace confirmation process for special enrollment periods (SEPs). SEPs allow individuals to enroll in coverage through the exchange when they experience certain mid-year life changes (outside of the annual enrollment period), such as marriage or birth/adoption of a child.

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IRS Issues Final Rules on Premium Tax Credits

On Dec. 19, 2016, the IRS published final rules pertaining to premium tax credit (PTC) eligibility for those enrolling in exchange coverage as well as certain affordability implications. The final rules adopt most, but not all, of the IRS proposed rules published

Announcements

Welcome to a New Year Compliance Corner

Happy New Year to you all! We hope that you had a wonderful holiday season. Going forward in 2017, we will be separating articles on retirement topics into their own section. So there will now be sections on health care reform updates, federal health updates, retirement updates, state updates, and an FAQ . We hope this will help you access the specific information you need.

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PPACA Employer Reporting White Paper Series Updated for 2017

in July 2016. Some provisions were delayed. Most notably delayed are the affordability implications of opt-out payments for employees who decline employer-sponsored health coverage (the IRS expects to finalize opt-out rules separately after examining issues raised).

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IRS Releases Updated Publication 5165 for Electronically Filing PPACA Information Returns

On Dec. 14, 2016, the IRS released an updated version of Publication 5165, entitled *“Guide for Electronically Filing Affordable Care Act (ACA) Information Returns for Software Developers and Transmitters,”* for tax year 2016 (processing year 2017). This updated publication replaces prior versions and outlines the communication procedures, transmission formats, business rules and validation procedures for returns transmitted electronically through the Affordable Care Act Information Return System (AIR).

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DOL Issues Final Regulations on Claims Procedure for Plans Providing Disability Benefits

On Dec. 16, 2016, the DOL published final regulations concerning claims procedure for plans providing disability benefits. As background, in November 2015, the EBSA proposed regulations related to disability plan claims procedures (covered in the Nov. 17, 2015, edition of Compliance Corner). The proposed regulations were written to amend

The NFP Benefits Compliance team has updated the white papers we developed last year to help employers navigate PPACA’s employer reporting requirements — particularly with respect to Forms 1094-B, 1095-B, 1094-C and 1095-C.

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DOL Hosting Educational and Outreach Forum

On Jan. 24, 2017, the DOL will host an Educational and Outreach Forum in San Antonio, TX. Multiple DOL agencies will attend and will present information to assist employers in understanding and complying with workplace laws. Of note, the DOL’s EBSA and the Wage and Hour Division (WHD) are two of the attending agencies, and they will address issues relating to employee benefits and the new overtime law.

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State Updates



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ERISA's rules to better align them with PPACA's internal claims appeal rules for health plans.

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DOL Releases ACA FAQs Parts 35 and 36: Special Enrollment Periods, Preventive Services, and QSEHRAs

On Dec. 20, 2016, the DOL issued FAQs About Affordable Care Act Implementation Part 35. The FAQs address special enrollment periods (SEPs) under HIPAA, the coverage of preventive services as required by the PPACA and the new benefit option called "qualified small employer health reimbursement arrangements" (QSEHRAs). While the guidance really doesn't provide any new information on these issues, they do answer employers' frequently asked questions.

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Final HHS Notice of Benefit and Payment Parameters for 2018

On Dec. 16, 2016, HHS released the final rules regarding benefit and payment parameters for 2018. HHS mostly finalized the rules that were proposed in September 2016 (discussed in the Sept. 7, 2016, edition of *Compliance Corner*). The rules primarily contain technical guidance for insurers, particularly those offering qualified health plans in the marketplace. However, there are some rules that directly impact employers offering group health plans.

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IRS Publishes Updated Q&As on PPACA Reporting and Employer Mandate

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FAQ

Is the Form W-2 reporting requirement still in effect, and what types of coverage must be reported?

[Read the Answer »](#)

Reference

Commonly Used Acronyms
[Glossary »](#)

On Dec. 29, 2016, and Jan. 4, 2017, the IRS issued a set of revised questions and answers (Q&As) providing additional guidance on employer compliance with PPACA reporting requirements under IRC Sections 6055 and 6056. Additionally, on Jan. 5, 2017, the IRS issued updated Q&As providing additional guidance on reporting using Forms 1094-C and 1095-C for calendar year 2016 that are to be filed in 2017, and on the employer mandate.

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IRS Health Care Tax Tip 2016-82: 11 Facts About Health Care Information Forms

On Dec. 28, 2016, the IRS released IRS Health Care Tax Tip 2016-82, which provides employers and providers with valuable facts about IRS Forms 1095-B and 1095-C, which must be submitted to the IRS. Specifically, the Tax Tip identifies the purpose of the two forms, the deadline by which the forms should be filed and the deadline by which the forms should be distributed to participants.

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District Court Stops Implementation of PPACA Section 1557 Regulations Relating to Gender Identity

On Dec. 31, 2016, in *Franciscan Alliance, Inc. v. Burwell*, the U.S. District Court for the Northern District of Texas (the court) published an opinion preliminarily prohibiting HHS from enforcing the provisions of the regulation implementing PPACA Section 1557 concerning gender identity or termination of pregnancy. As background, PPACA Section 1557 generally prohibits HHS-funded entities

from discriminating on the basis of race, color, national origin, sex, age or disability.

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Federal Health Updates

DOL Issues 2016 Form M-1 for MEWAs

The IRS recently issued the 2016 version of Form M-1. As background, Form M-1 must be filed by MEWAs and certain entities claiming exception (ECEs). The Form M-1 allows those entities to report that they complied with ERISA's group health plan mandates.

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EEOC Issues Guidance Related to Workplace Rights for Individuals with Mental Health Conditions

On Dec. 12, 2016, the EEOC issued a resource document that explains workplace rights under the ADA for individuals with mental health conditions. The publication is entitled "Depression, PTSD, and Other Mental Health Conditions in the Workplace: Your Legal Rights."

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Retirement Updates

IRS Publishes *Employee Plans News Issue No. 2016-13*

On Dec. 16, 2016, the IRS published *Employee Plans News Issue No. 2016-13*. In this edition, the IRS advised that the FIRE Production System is down for yearly updates, provided additional instructions for Forms 8950 and 14568-B for Voluntary Correction Program (VCP) submissions, introduced procedures

for Puerto Rico plan sponsors to make an ERISA 1022(i)(2) election, introduced a webinar about the IRS Tax Calendar for businesses and self-employed individuals, highlighted Notice 2016-67 (related to implicit interest pension equity plans), identified updated publications, and reemphasized previously issued security reminders.

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DOL Issues Final Regulations on Savings Arrangements Established by Political Subdivisions for Non-Governmental Employees

On Dec. 20, 2016, the DOL issued final regulations on savings arrangements established by political subdivisions, such as cities and counties. As background, the DOL issued final rules for state-run IRA programs back in August 2016 (covered in the Sep. 7, 2016, edition of Compliance Corner). Those final rules created a safe harbor from ERISA for state-run IRA programs that met certain conditions. In addition to those final rules, the DOL issued proposed rules that would allow political subdivisions of states to establish similar programs.

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IRS Simplifies User Fee Exemptions for Small Employers Submitting Determination Letter Applications

On Dec. 16, 2016, the IRS issued Notice 2017-1, simplifying the requirements for certain small employers to avoid paying a user fee when submitting a recently established retirement plan for a determination letter. IRC Section 7528(b)(2) provides a user fee exemption for certain requests to the IRS for determination letters with respect to the qualified

status of small employer pension, profit-sharing, stock bonus, annuity, and employee stock ownership (ESOP) plans. Originally, the exemption was not available to requests made after the plan's first five years of existence (the remedial amendment period).

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IRS Issues Updated Instructions for IRS Form 5300

In January 2017, the IRS issued updated Form 5300 instructions. Form 5300 is used to apply to the IRS for a determination letter as to the initial qualification of a defined contribution or defined benefit plan. Many of the revisions reflect the changes affecting individually designed plans described in Rev. Proc. 2016-37, including eliminating 5-year remedial amendment cycles and generally limiting determination letters requests to initial plan qualification and termination.

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