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Compliance Corner

November 16, 2016

Health Care Reform

Post-Election: What's the Future of the Affordable Care Act?

Now that the election is over, and with President-elect Donald Trump pledging to make significant alterations to the Affordable Care Act (ACA), the ACA's future is very much up in the air. With Republicans controlling the White House and Congress, the door is open for huge changes to the law. At this point, it's not clear whether those changes will include complete repeal, major overhaul or minor tweaks. Regardless, the election results leave the ACA, and perhaps other laws relating to employer-provided benefits, exposed.

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IRS Releases Final Guidance on Substitute Forms under IRC Sections 6055 and 6056

On Oct. 27, 2016, the IRS released Publication 5223 outlining rules and specifications related to the use of substitute forms under IRS Sections 6055 and 6056. As background, large employers (those subject to the

Announcements

Final November Training Opportunity, Register Now

One webinar remains in our November series of compliance webinars. "Spotlight on Mental Health Parity" is scheduled for Wednesday, Nov. 16, 2016, at 3:00 pm ET.

NFP Benefits Compliance reserves the right to change training topics in the event of significant legislative, judicial or regulatory developments.

Can't make a live webinar? A recording of each session will be posted to the NFP Client Learning Portal within 48 hours of the live webinar. Those listening

employer mandate) and employers that sponsor self-insured plans are subject to certain informational reporting requirements under IRC Sections 6055 and 6056. Under those sections, those employers must file certain forms (1095-B and 1095-C) with the IRS and distribute either a copy of the forms or a substitute form to employees/covered individuals.

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Agencies Publish Final Regulations on Excepted Benefits, Short-Term Coverage and Essential Health Benefits (EHBs) Lifetime and Annual Dollar Limits

On Oct. 31, 2016, the IRS, DOL and HHS jointly published final regulations relating to several PPACA regulations, including excepted benefits and the prohibition on lifetime and annual dollar limits for EHBs. As background, the agencies published proposed regulations on these topics back in June 2016 (covered in the June 14, 2016, edition of *Compliance Corner*). The final regulations, for the most part, adopt those proposed regulations as final.

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IRS Releases Updated PPACA Information Returns (AIR) Submission Composition and Reference Guide

On Nov. 9, 2016, the IRS released Publication 5258: ACA Information Returns (AIR) Submission Composition and Reference Guide. The guide has been updated for use in 2017. An early look at the 2017 guide was reported in the Nov. 1, 2016, edition of *Compliance Corner*. This resource is meant to assist various entities with electronic information return (AIR) submissions required under PPACA, i.e. Forms 1094-B and 1095-B under Section 6055 and Forms 1094-C and 1095-C under Section 6056.

to a recorded webinar will not be eligible for recertification credit.

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Next Edition of *Compliance Corner* Delayed

The next edition of *Compliance Corner* is regularly scheduled to be released on, Tuesday, Nov. 29, 2016. That edition will be delayed and released on Wednesday, Nov. 30, 2016.

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State Updates

 **Georgia**
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 **Maryland**
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 **Montana**
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FAQ

If an employee is married, do both the employee and spouse have to work in order to utilize our company's Dependent Care Assistance Program (DCAP)?

[Read the Answer »](#)

Reference

Commonly Used Acronyms
[Glossary »](#)

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PCOR Fee Increased for 2016-2017 Plan Years

On Nov. 4, 2016, the IRS released Notice 2016-64, which announces that the adjusted applicable dollar amount for PCOR fees for plan and policy years ending on or after Oct. 1, 2016, and before Oct. 1, 2017, is \$2.26. This is a \$.09 increase from the amount in effect for plan and policy years ending on or after Oct. 1, 2015, but before Oct. 1, 2016.

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CMS Publishes 2016 Reinsurance Contributions Review and Discussion Session

This week, CMS published a set of slides, “2016 Reinsurance Contributions Review and Discussion Session,” which it used in two recent 90-minute webinar sessions. The slides are meant to help insurance carriers and employers with self-insured plans to identify key reinsurance contribution program dates and uniform contribution rates for the 2016 benefit year. As described in our announcement, reinsurance contribution enrollment counts are due by Nov. 15, 2016, while actual contribution payments (\$27 per covered life) are not due until Jan. 17, 2017, and Nov. 15, 2017.

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Federal Updates

DOL Announces New Expiration Date for Model CHIP Notice

On July 31, 2016, the DOL revised the Employer CHIP Model Notice which employers with group health plans use to inform eligible employees about

premium assistance offered through their state Medicaid or Children's Health Insurance Program (CHIP). Originally, the notice was set to expire on Oct. 31, 2016, but the effective date has now been extended through Nov. 30, 2016.

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DOL Publishes Advance Copies of 2016 Form 5500 and 5500-SF

On Nov. 1, 2016, the DOL published advance information copies of the 2016 Form 5500 return/report, which includes Form 5500-SF and corresponding instructions. These advance copies are only for informational purposes and may not be used for 2016 Form 5500 or 5500-SF filings, but employers should familiarize themselves with the changes in preparation for 2016 plan year filings. Important modifications to the Form 5500 and Form 5500-SF instructions and schedules are summarized below.

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DOL Introduces Online Tool Related to Medical and Disability Related Leave

On Oct. 31, 2016, the DOL launched the Medical and Disability Related Leave Advisor (Advisor) to help workers and employers understand medical and disability related leave.

The Advisor asks a few questions and then uses answers to those questions to determine which federal employment laws apply. Questions asked include the type of business or organization, workforce size and if the entity receives federal financial assistance. Two examples of identifiable federal laws that may apply include FMLA and ADA.

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HHS Publishes Mental Health and Substance Use Parity Task Force's Final Report

On Oct. 27, 2016, the Mental Health and Substance Use Disorder Parity Task Force (the Task Force) released its final report. This task force was created by President Obama in March 2016 to increase awareness of the protections mental health and substance use parity (parity) provides, to improve understanding of the requirements of parity and to increase the transparency of the compliance process.

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DOL Provides Hurricane Matthew Relief and Guidance for Plan Sponsors and Participants

On Oct. 27, 2016, the Employee Benefits Security Administration of the DOL released compliance guidance (which includes limited relief) and participant FAQs addressing Hurricane Matthew issues. The DOL recognizes that many parties may encounter compliance-related issues in the coming months related to their ERISA-covered plans. Specifically, the compliance guidance is meant to help employee benefit plans, plan sponsors, employers and employees that are located in counties identified as a covered disaster area due to Hurricane Matthew's devastation.

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DOL Issues FAQs on Fiduciary Conflict of Interest Rule

On Oct. 27, 2016, the DOL published a set of FAQs on the Conflict of Interest rule. As background, the Conflict of Interest rule amends ERISA's definition of 'fiduciary' by considering more communications to be

investment advice that renders the person providing that advice a fiduciary. Additionally, the DOL introduced new prohibited transaction exemptions (PTEs) and amended others in order to permit common compensation structures and to cover certain types of transactions. These FAQs answer questions concerning those PTEs – some highlights of which we will discuss below.

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