

IRS Clarifies Guidelines for W-2 Reporting of Health Coverage Costs

The Patient Protection and Affordable Care Act requires employers to report the aggregate cost of employer-sponsored health coverage on the Forms W-2 of its employees. In March 2011, the Internal Revenue Service issued interim guidance on the Form W-2 informational reporting requirement in the form of 31 Q&As. Recently, the Internal Revenue Service revised this interim guidance by issuing Notice 2012-9, which clarifies several of the original Q&As and adds some Q&As. [**MORE**](#)

Surveys Find Weak Economic Outlook Leads Workers to Delay Retirement

Slightly fewer than 15 percent of older Americans (those age 50 and older) now expect to retire at age 70, up from 11.2 percent in 2006, according to the Employee Benefit Research Institute. The study, Retirement Age Expectations of Older Americans Between 2006 and 2010, published in the December 2011 EBRI Notes, also noted that even at higher ages, the expected retirement age has jumped: just 1.7 percent of workers age 50 or over planned to retire at age 80 in 2006, while that figure more than tripled to 5.2 percent in 2010. The study suggests that this is due to the economic recession. [**MORE**](#)

U.S. Supreme Court Upholds Ministerial Exemption

The U.S. Supreme Court has ruled that ministers are barred from bringing employment discrimination suits against their religious employers, reversing a decision by the 6th Circuit Court of Appeals. [**MORE**](#)

20% of Health Care Dollars Spent on 1% of Population

In 2009, 1% of the nation's civilian population required healthcare spending that was slightly greater than in 2008, an increase from 20.2% to 21.8% of \$1.26 trillion in treatment dollars, according to the latest Statistical Brief from the federal Agency for Healthcare Research and Quality.

That indicates that more than \$1 in every \$5 healthcare dollars went to treat one out of every 100 people. The annual mean expenditure was \$90,061 for those in that 1%. [**MORE**](#)

Insurers Offering Accident and Disability Insurance in Wisconsin

On December 2, 2011, the Office of Commissioner of Insurance (OCI) issued a statement of scope for issuing an emergency rule relating to repeal of Emergency Rule 1117. Emergency Rule 1117 was promulgated on an emergency basis effective November 16, 2011, and related to grievance and independent review requirements bringing the State of Wisconsin into full compliance with 42 USC 300gg. The OCI will not promulgate Emergency Rule 1117 as a permanent rule.

As a result of these developments, OCI anticipates that the Center for Consumer Information and Insurance Oversight (CCIIO) will withdraw their approval of the Wisconsin process, and the State of Wisconsin will no longer be listed as being compliant. Insurers should be aware that CCIIO will likely be contacting each insurer in the next several weeks regarding this change in status. [**MORE**](#)

Democrats Urge High Court to Uphold State Workers' Right to Sue Over Medical Leave

Two high-ranking Democrats involved in the drafting of the 1993 Family and Medical Leave Act are urging the Supreme Court not to strike down state workers' ability to sue under the law.

The high court heard oral arguments Wednesday in a case brought by a former Maryland state court worker who said he was fired in 2007 after taking 10 days off to treat hypertension and diabetes. The law requires certain employers to allow workers to take up to 12 unpaid weeks off per year to deal for qualified medical and family issues. [**MORE**](#)

Patient Groups Seek Delay on 'Essential Benefit' Rules

A broad coalition of patient advocates Wednesday asked the Obama administration to slow down its implementation of a key regulation under the healthcare law.

A group of 75 patient organizations asked the Health and Human Services Department to allow more time for public comment on its proposal for defining "essential health benefits." The healthcare law directs HHS to define a package of essential benefits that all insurance plans will have to cover beginning in 2014. [**MORE**](#)

EEOC Takes Aggressive Measures to Enforce the ADAAA

Phelps Dunbar has been advising our clients over the last year to expect an increase in EEOC charges and litigation following the passage of the Amendments to the Americans with Disabilities Act. Since the EEOC's final regulation under the Act were published in March of last year we have seen a sharp increase in EEOC charges filed under the ADA. Many of those charges have now worked their way through the EEOC process and we are seeing an increase in litigation that the EEOC is pursuing on behalf of employees who allege that they have been denied a reasonable accommodation under the ADA.

[MORE](#)

SEC Rule Proposes to Preclude Certain Collective Action Claims under FINRA Arbitration Rules

The Securities and Exchange Commission (SEC) has published a proposed rule applicable to arbitrations conducted by the Financial Industry Regulatory Authority, Inc. (FINRA). See 77 Fed. Reg. 1773. The rule would preclude collective action claims by employees of FINRA members brought under the Fair Labor Standards Act, the Age Discrimination in Employment Act or the Equal Pay Act of 1963 from being arbitrated in a FINRA forum.

In collective actions, unlike class actions, an individual must affirmatively consent or "opt-in" to become a member of the collective action to benefit from the outcome. Absent members (those who do not opt-in) are not precluded from pursuing their claims in other forums. FINRA has expressed the view that once a collective action has been granted, the claims in dispute are administered like a class action and therefore would be precluded from arbitration in FINRA's forum. FINRA further believes that class actions should be handled through the judicial forum, which has procedures to manage such claims.

Responses to the SEC notice should be submitted on or before February 1, 2012. **[MORE](#)**

The ERISA Litigation Newsletter

This month, we include a look back at the most significant ERISA litigation decisions of the past year and what they portend for 2012. The article addresses the implications of two major Supreme Court decisions, Cigna Corp. v. Amara and Walmart Stores, Inc. v. Dukes, and developments in 401(k) plan excessive fee and employer stock drop cases. **[MORE](#)**