

Weekly Digest

• January 19, 2021 •

EMPLOYEE
BENEFITS

EEOC Issues Long-Awaited Proposed Wellness Program Rules

"The ADA proposed rules would create an entirely new compliance framework for employers that sponsor wellness programs. If the proposed rules are finalized in their present form, existing wellness programs may need to be reconfigured to fit within the new parameters. The GINA proposed rules represent a major shift in policy. Previously, employers could offer significant rewards in exchange for a spouse (or other family member) who completes an HRA. The GINA proposed rules would pare this down to a *de minimis* reward." [Full Article](#)

Ogletree Deakins



No Surprises: Congress Enacts Surprise Bill Law and Adds Mandatory Billing Transparency

"To date, approximately 22 states have enacted protections against surprise billing. States cannot regulate ERISA health plans and thus cannot fully protect all consumers. The No Surprises Act will therefore extend surprise billing protections to ERISA plan beneficiaries, as well individuals in states without protections. States are explicitly empowered to enforce the No Surprises Act and if they do so, they will be the primary mechanism of enforcement." [Full Article](#)

Proskauer

In This Digest

PAGE 1

EEOC Issues Long-Awaited Proposed Wellness Program Rules

By, Ogletree Deakins

No Surprises: Congress Enacts Surprise Bill Law and Adds Mandatory Billing Transparency

By, Proskauer

PAGE 2

Economic Report Card for the ACA's Employer Mandate

By, The White House

State Policies to Make Health Care More Affordable During COVID-19 and Beyond

By, Health Affairs Blog

Congress Requires Health Plans to Accelerate Mental Health Parity Compliance

By, Manatt, Phelps & Phillips, LLP

Consolidated Appropriations Act, 2021: Top Practical Considerations on FSA, Election Change Relief

By, Jackson Lewis P.C.



Economic Report Card for the ACA's Employer Mandate

"The March 2015 CBO baseline estimated \$167 billion in net revenue from the employer mandate from 2016 to 2025. CBO was off by nearly two orders of magnitude. For 2016, the CBO projected \$9 billion in revenue from the mandate penalty. The IRS reported penalties of \$420 million assessed for tax year 2016, and after dispute resolution, \$142 million collected. While complete information is still not available from the IRS for tax year 2017, preliminary data indicates a similar gap. Furthermore, the cost of enforcement is not trivial." [Full Article](#)

The White House

State Policies to Make Health Care More Affordable During COVID-19 and Beyond

"Prior to the pandemic, some states had policies in place to control health care prices directly. With provider consolidation likely to continue in the coming months, these policies will become increasingly important to protect consumers from the effects of large price increases: [1] Policies to control prices through cost growth benchmarks; [2] Policies to limit hospital prices directly; [3] Policies to limit hospital price growth; and [4] A combined approach." [Full Article](#)

Health Affairs Blog

Congress Requires Health Plans to Accelerate Mental Health Parity Compliance

"Section 203 of the Act parallels compliance requirements that already exist in some states and that have been urged on regulators by several prominent behavioral health advocacy groups. Nonetheless, the fact that states have already tested out these requirements does not mean plans or issuers will be able to comply with the new federal requirements easily." [Full Article](#)

Manatt, Phelps & Phillips, LLP



Consolidated Appropriations Act, 2021: Top Practical Considerations on FSA, Election Change Relief

"Have you communicated with your administrator for the healthcare FSA and dependent care FSA to confirm their capabilities for implementing these rules? Would you permit the entire amount or some lower amount to be carried over? What impact would the carryover or grace period have on health savings account (HSA) eligibility? Are your administrators able to administer the ordering rules that enable employees to use FSA dollars from two different plan years for the entire next plan year? Have you considered the potential impact this may have on your COBRA notices? How would you communicate the changes to employees?" [Full Article](#)

Jackson Lewis P.C.