

The ERISA Industry Committee

Washington Update:
May 5, 2010



Washington Update Agenda

- Welcoming Remarks
- Health Policy Update
- Retirement Security Update
- Concluding Remarks/Questions



Health- Legislative Update

- PPACA technical corrections bill?
- H.R. 5175 DISCLOSE Act –(Sen. Schumer, Rep. Van Hollen, and Rep. Castle)
 - lessens impact of the Citizens United decision
- S.3220- (Snowe) provides parity for prosthetics and custom orthotics under group health plans
- H.R. 5025- (Kennedy) extends health information technology assistance to behavioral health mental health and substance abuse facilities



Health- Legislative Update

- H.R. 4796 -(Murphy) amends Medicare secondary payer rules
 - Changes to conditional payment process
 - Sets minimum threshold for MSP recovery actions



Health-Regulatory Update

- Retiree Reinsurance reg released
- IRS guidance on the tax implications of covering adult children
- Updated COBRA Model Notices, Applications, Fact Sheets, and FAQs
- Health Care Reform Insurance Web Portal Requirements regs



Retiree Reinsurance Program

- Interim final regulation with comment period
- Program open June 21, 2010 – Jan. 1, 2014
- Temporary \$5B reinsurance fund for early retirees, spouses, dependents
 - Retirees age 55-64, not Medicare eligible
- Sponsor must become approved applicant
- Reimbursement of claims $> \$15,000$ and $< \$90,000$
 - Claims must be incurred and paid on or after June 1



Retiree Reinsurance, cont.

- Maintenance of effort provision
 - Employer must specify how it will use reimbursement to reduce costs
 - Funds may be used to lower costs for all participants in plan, including active employees
- Must also have in place programs and procedures to generate savings for participants with chronic or high-cost conditions



Coverage of Adult Children

- IRS Notice 2010 – 38
- Favorable tax treatment for covered children
 - Tax dependents OR nondependent children under age 27: children, step children, foster children
- OK to change of status under cafeteria plan
 - Must amend eventually
- Still some open questions
 - Who is a child?
 - How much can we charge?



Health-Regulatory Update, cont.

- HITECH RFI
- Agencies have released their semiannual regulatory agendas



Health-Regulatory Update

Expected Regs

HHS: Under OMB Review:

- Modifications to the HIPAA Privacy, Security, and Enforcement Rules Under the Health Information Technology for Economic and Clinical Health Act. Submitted on 4/12/10



Health-Regulatory Update

Expected Regs

HHS: Completed in Last 30 Days:

- Request for Comments Regarding Section 2718 of the Public Health Service Act (Medical Loss Ratios). Completed 4/8/10
- Request for Comments Regarding Section 2794 of the Public Health Service Act, as added by Section 1003 of PPACA. Completed 4/8/10



Health-Regulatory Update

Expected Regs

DOL: Under OMB Review:

- Definition of "Welfare Plan." Received 2/22/10

EEOC: OMB Completed in Last 30 Days:

- Genetic Information Nondiscrimination Act.
Completed 4/8/10



Health-Regulatory Update

ERIC Action:

- Ongoing: Healthcare reform task force
 - Meeting today with PPACA regulators
 - Follow-up discussion with ERIC members May 6, 2:00 p.m. EDT
- Took part in meeting with White House officials to discuss employer needs with regards to “grandfathering”



Health-Regulatory Update

ERIC Action:

- DOL proposed regulation to amend ERISA definition of “Welfare Benefit Plan”
 - Meeting with OMB to request withdrawal of reg
 - Follow-up letters
- Submitted comments on mental health parity reg
 - ERIC call 5/26: moderated discussion on compliance with regulation



Retirement – Legislative Update

Defined Benefit Plan Funding

- Status of “extenders bill” (The American Workers, State and Business Relief Act (AWSBRA)) with DB funding provisions
- Health bill uses some of AWSBRA’s “pay fors”
- Statements by House Ways and Means Acting Chairman Levin
- Next steps



Retirement – Legislative Update, cont.

Financial Services Reform

- House bill (H.R. 4173) provides carve-out for retirement plans from BCFP regulation
- Senate bill (S. 3217) “Restoring American Financial Stability Act of 2010” provides carve-out for retirement plans from BCFP regulation
- Senate floor debate
- Derivatives/swaps/fiduciary issue



Retirement – Regulatory Update

- Joint DOL/Treasury Request For Information (RFI) on role of annuities in retirement plans
- ERIC Comment letter on RFI filed 5/3/10
- ERIC survey on RFI issues
- ERIC Annuity Task Force



Retirement – Regulatory Update, cont.

Department of Labor

- DOL released revised proposed regulations on investment advice (legislation on hold currently) – ERIC comment letter filed today, 5/5/10
- Proposed regulations under ERISA section 408(b)(2) imposing fee disclosure requirements on plan service providers to be re-released after investment advice proposed regulations – EXPECTED SOON
- Proposed regulations under ERISA section 404 requiring employers to provide disclosure to plan participants on fees relating to 401(k) plans to be re-released in 2010



Retirement – Regulatory Update, cont.

- DOL expected to release “general principles” for plan sponsors regarding selection of target date funds for plans
- DOL expected to release “general principles” for participants to use when choosing a target date fund as an investment option in a 401(k) plan



Retirement – Regulatory Update, cont.

Pension Benefit Guarantee Corporation

- Obama Administration nominee to head PBGC
Joshua Gotbaum not yet confirmed
- ERIC circulates memo requesting member
feedback on PBGC notices on improper premium
filings (feedback requested by 5/11/10)



Retirement – Regulatory Update

IRS & Treasury

- IRS issued T.D. 9472 on section 204(h) notice and notice on amendment deadlines for market rate of return regulations under PPA
- Final hybrid regulations & market rate of return regulations under PPA expected
- Proposed guidance on pension equity plans under the Pension Protection Act of 2006 (PPA)- delayed indefinitely (DL program reviewed)



Upcoming Meetings and Events

- June 8 – Retirement Security Committee Meeting
- June 9 – Board of Directors Meeting
- June 10 – Health Policy Committee Meeting
- June 15 – Washington Update Conf. Call (new date)
- July 12 – Washington Update Conf. Call



Upcoming Meetings and Events

- September 13 – Washington Update Conf. Call
- October 4 – Washington Update Conf. Call
- October 19 – Board of Directors Meeting
- October 20 – Board of Delegates / Membership Meeting
- October 20 – Concurrent Health & Retirement Security Committee Meetings
- November 1 – Washington Update Conf. Call
- December 6 – Washington Update Conf. Call

