



The ERISA Industry Committee



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CLIPPINGS

ERIC NEWS

Save the Date for ERIC's June 2010 Meetings



ERIC's June Meetings Are Fast Approaching, So Mark Your Calendars Now!

Come hear the latest on employee benefits from government, industry and other expert speakers.

- **June 8: Retirement Security Committee**
- **June 9: Board of Directors Meeting**
- **June 10: Health Policy Committee**

2010 ERIC Meetings & Events

May

- 5 Washington Update Conf. Call

June

- 8 Retirement Security Cmte. Mtg.
- 8 Board of Directors Dinner
- 9 Board of Directors Meeting
- 10 Health Policy Cmte. Mtg.
- 15 Washington Update Conf. Call

July

On June 8, ERIC's Retirement Security Committee will consider ERIC's strategy on the debate over defined-benefit funding relief, congressional proposals for retirement reform, and the increasingly likely spillover of executive and deferred compensation limits from the financial crisis to all companies. Members will have an opportunity to hear an update from various regulatory agencies regarding retirement policy issues as well as dialogue with the agency representatives regarding hot topics and issues of importance to major corporations.

On June 10, ERIC's Health Policy Committee will discuss the intricacies of the new health care reform laws and consider what issues are most urgently in need of regulatory answers. We also will review new developments with respect to the COBRA premium subsidy, the HITECH Act, and a pending proposed regulation by the Department of Labor that would "clarify" the definition of "employee welfare benefit plan" and "welfare plan" for plans maintained by state and local governments that could conflict with ERISA preemption.

We strongly urge you to attend these important meetings. ERIC will be distributing meeting agendas and registration information in the very near future.

ERISA PREEMPTION

ERIC Urges Withdrawal of DoL Proposed Regulation Threatening ERISA Preemption



ERIC on April 29 urged the Office of Management and Budget (OMB) to withdraw a draft proposed regulation that would permit states to set up conflicting health plans that threaten to interfere with the nationally uniform health arrangements of multistate employers that ERIC represents. OMB must approve any regulations by government agencies.

The Department of Labor earlier this year, and prior to the enactment of the Patient Protection and Affordable Care Act (PPACA), submitted to OMB for a 90-day review, a regulatory proposal to change the definition of "employee welfare benefit plan" and "welfare plan" to exempt from ERISA preemption State and local government health plans that included non-governmental employees.

For the full article discussing ERIC's letter, [click here](#).

Meanwhile, Employee Benefits Security Administration Assistant Secretary Phyllis Borzi recently participated in a live web chat where she was asked about the draft proposed regulation. In response to separate questions from ERIC Counsel John Vine of Covington & Burling and ERIC President Mark Ugoretz about whether EBSA -- in light of enactment of PPACA -- would still issue the proposal, Borzi simply said that EBSA will review all of its health care initiatives relating to PPACA throughout the next several months and "make decisions accordingly."

If you have any questions or comments on this issue, contact either Gretchen Young (gyoung@eric.org) or Adam Solander (asolander@eric.org).

[ERIC Letter to OMB](#)

[Talking Points on Draft Regulation](#)

[Coalition Letter to OMB](#)

RETIREMENT SECURITY

ERIC Offers Recommendations to Government Request on Lifetime Income Options



ERIC on May 3 submitted comments to the Departments of Labor and Treasury in response to their request for information (RFI) regarding lifetime income options for participants and beneficiaries in retirement plans.

ERIC commended the agencies for issuing the RFI and offered recommendations that seek to enhance the retirement security of participants, while maintaining ERISA's objectives of encouraging employers to maintain and create retirement plans. Accordingly, ERIC said it opposes any requirement that plans offer lifetime income arrangements (LIA) as distribution options. A mandate in any

12 Washington Update Conf. Call

September

13 Washington Update Conf. Call

October

4 Washington Update Conf. Call

19 Board of Directors Mtg.

20 Board of Delegates / Membership Meeting

20 Concurrent Health & Retirement Cmte. Mtgs.

November

1 Washington Update Conf. Call

December

6 Washington Update Conf. Call

ERIC Preemption Watch

State governments are increasingly looking to enact State-based health reforms, as ERIC members are faced with new statutes in Massachusetts and San Francisco, and legislation is continually sprouting up in other States.

We can provide resources to help local business interests fight bad legislation. We are asking that ERIC members let us know as soon as possible about State health reforms that would impinge on preemption and national uniformity. ERIC has established on *ERIC OnLine* a "[Preemption Watch](#)" that includes talking points and other information about the importance of Federal ERISA preemption and national uniformity.

Let ERIC staff know early about State initiatives so we can get the right materials in the right hands before the wrong legislation gets moving. ERIC staff that should be advised includes: Mark Ugoretz (mugoretz@eric.org) and Gretchen Young (gyoung@eric.org).

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Not Using ERIC Online?

fashion would subject plan fiduciaries to potential liabilities, and plans to great expense, for very little or no gain, ERIC's letter said.

ERIC also said it believes that the interests of DC plan participants as a whole group will be best served by educating both employers and participants regarding LIAs rather than by imposing a mandate on all DC plans.

ERIC also warned that employers are increasingly concerned that any assistance they provide will expose them to fiduciary liability and new lawsuits.

Among ERIC's other recommendations are that the agencies should consider:

- Providing a genuine safe harbor for the selection of an annuity provider;
- Working with Congress to reform the minimum distribution rules; and
- Issuing guidance on DC-to-DB transfers to facilitate the efforts of employers that wish to offer participants in their DC plans the opportunity to transfer their DC plan account balances to the employer's DB plan.

Questions or comments on ERIC's submission should be sent to Kathryn Ricard (kricard@eric.org).

[ERIC Letter to DOL and Treasury](#)

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ERIC Urges Foreign Bank Account Reporting Requirement Not Apply to Administrators of Employee Benefit Trusts



ERIC on April 27 urged the Department of Treasury's Financial Crimes Enforcement Network (FinCEN) to exempt employee benefit plans from Bank Secrecy Act regulations that would require multiple and confusing foreign account reporting requirements by plan administrators. ERIC argued that employee benefit plans are already heavily regulated and do not fit the concerns that foreign financial institutions were being used to evade domestic criminal, tax, and regulatory laws.

The proposed regulations seek to clarify who is required to file reports of foreign financial accounts and which accounts will be reportable (Report of Foreign Bank and Financial Accounts (FBAR) *Federal Register*, February 26, 2010)

FBAR reports raise issues of compliance with respect to employee benefit trusts and individuals with signature authority over a foreign bank account. The regulations would effectively subject virtually anyone with authority over a pension plan and other employee benefit trusts, which could include scores of individuals, to multiple reporting requirements.

ERIC argues that employee benefit trusts should be exempt from the FBAR filing requirements. The letter explains that these trusts are already subject to comprehensive disclosure requirements and extensive oversight by the Department of Labor and IRS, and there is no credible prospect that they will use foreign financial accounts to evade domestic laws.

ERIC's comments also urged that if the FBAR requirements were to apply to employee benefit trusts, the regulations should be revised and clarified so that these requirements are limited.

ERIC's other recommendations include that:

- The regulations should make it clear who must file an FBAR
- The regulations should not require more than one FBAR report for each foreign account maintained by an employee benefit trust
- The exceptions for regulated financial institutions should extend to employee benefit trusts
- The exception for public-company accounts should extend to accounts of employee benefit trusts sponsored by public companies
- The interest of an employee benefit trust in an illiquid pooled account should be exempt from reporting
- An employer that appoints a named fiduciary should not be deemed to have appointed a "trust protector"

[ERIC OnLine](#) is a tremendous resource for information on employee benefit issues. You will find ERIC testimony, regulatory comment letters, amicus briefs, issues briefs, legislative analyses, and various other resources -- all highly regarded for their accuracy and timeliness.

If you currently are not using [ERIC OnLine](#) and would like access to the members-only side of the website, [click here](#) to register. Please include your name, contact information, and preferred user name and password (at least six characters each). Members who wish to change their user name and password may also click on the above link.

Looking for a Speaker?

Interested in hearing about the latest developments in employee benefit, retirement, health, and compensation issues, ERIC will arrange to have one or more of our expert staff members or member company executives available to speak at your next meeting or conference. For more information or to request a speaker, please contact Ted Godbout by phone (202-789-1400) or e-mail (tgodbout@eric.org).

Survey Says

Do you often wonder how your peers at other companies handle various plan sponsorship issues regarding their retirement or healthcare benefits, but do not have the time or resources to conduct your own survey? If so and you are an ERIC member, we will accommodate your request by submitting your questions -- open or anonymously -- to our membership to get their views and input. We cannot guarantee participation, but we are pleased to help you get the information you need.

If your company would like to submit a question or conduct an informal survey to gain feedback from ERIC members, please contact Ted Godbout by phone (202-789-1400) or e-mail (tgodbout@eric.org) for more information.

Questions or comments on this issue should be addressed to Kathryn Ricard (kricard@eric.org).

[ERIC Comment Letter](#)

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ERIC Seeks Feedback from Members on PBGC Notices on Incorrect Premium Filings



The Pension Benefit Guaranty Corporation (PBGC) has taken a fairly hard line with regard to failures to properly elect the "Alternative Premium Funding Target." To understand how widespread the issue is among our members, we would like to hear back from employers who have received an incorrect premium filing notice from the PBGC related to electing the "alternative premium funding target."

Earlier this year, the PBGC began to notify defined benefit plan sponsors of what the PBGC characterized as incorrect premium filings. According to PBGC, the error relates to the failure to elect the "Alternative Premium Funding Target" in Box 5 of the comprehensive premium filing, although the election was made in another portion of the filing.

The PBGC has received complaints that the alleged errors can be traced to (1) PBGC's poorly designed form and instructions for completing the filing, and (2) last minute changes by the IRS that required filers to re-evaluate how to complete the form. This second complication arose when the IRS belatedly announced that a company that elected to use the Alternative Premium Funding Target (calculated using the full yield curve) in 2009 would be permitted to switch back to the Standard Premium Funding Target (calculated using segment rates) in 2010. To date, the PBGC has rejected requests for relief and is insisting that plan administrators recalculate and pay variable rate premiums using the standard method if they failed to check the alternative method election in Box 5, even though they clearly indicated that they would be using the alternative method by checking Box 7.

Why ERIC Members Should Be Concerned

PBGC's failure to provide administrative relief that clearly is within its power to grant imposes a financial burden on affected plans that is entirely disproportionate to the error that PBGC alleges has occurred. The use of the standard method could result in variable rate premiums that are, in some cases, millions of dollars higher than under the alternative method.

For an expanded discussion of this issue, [click here](#).

Please provide feedback, or questions or comments on this issue to Kathryn Ricard at (kricard@eric.org).

IASB Publishes Exposure Draft on Defined Benefit Plan Accounting



The International Accounting Standards Board on April 29 released for public comment an exposure draft of proposed amendments to IAS 19 **Employee Benefits** to amend the accounting for defined benefit plans. According to the IASB, the amendments would address "deficiencies" in IAS 19 by requiring entities:

- To account immediately for all estimated changes in the cost of providing these benefits and all changes in the value of plan assets (often referred to as removal of the 'corridor' method). IASB proposes to remove from IAS 19 options that allow a company not to recognize some gains and losses that arise when a company changes its estimate of a defined benefit obligation, or when there are changes in the fair value of its plan assets, and instead proposes that companies recognize these items immediately.
- To use a new presentation approach that would distinguish between different components of the cost of these benefits. The new presentation approach under the exposure draft proposes that companies present: service cost - in profit or loss; finance cost - as part of finance costs in profit or loss; and remeasurement - in other comprehensive income.
- To disclose clearer information about the risks arising from defined benefit plans. The exposure draft proposes improved disclosure requirements about matters such as the characteristics of the

Washington Connection

Are you interested in proposed legislation and regulations that will affect your company's benefit plans everyday? Want to meet with the key Washington insiders who can explain it in a way that makes sense to you and your colleagues? ERIC will help in arranging meetings on federal legislative and regulatory developments. ERIC's staff has first-hand, expert understanding of the way Congress and the Executive Branch operate. Not only do we have access to key Members and staff of Congress and the Executive Branch, but we also are actively involved with the larger community of tax, labor, and benefits professionals in Washington, D.C.

Take advantage of those relationships to meet directly with key players in Congress and the Administration. For more information, please contact Ted Godbout by phone (202-789-1400) or e-mail (tgodbout@eric.org).



Past issues of the *ERIC Executive Report*, are available at www.eric.org.

For more information about these articles, or any other issue, please contact the ERIC staff:

- Mark Ugoretz
- Kathryn Ricard
- Gretchen Young
- Deborah Chin
- Ted Godbout
- Adam Solander
- Christine Rhone

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company's defined benefit plans, the amounts recognized in the financial statements, risks arising from defined benefit plans, and participation in multi-employer plans.

According to a Mercer press release, the proposal, which places both the upside and downside of risks taken by defined benefit plans outside of the profit or loss account, could affect company behavior if finalized in its current form.

To help ERIC members better understand the ramifications of the exposure draft, we have included a replay of a Mercer webcast from last Thursday. Mercer in partnership with the IASB hosted a webcast on April 29 to discuss the content of the exposure draft on IAS 19 covering Defined Benefit plans and what it could mean for plan sponsors. The webcast also includes a discussion of what this exposure draft means for companies reporting under US GAAP, given plans for convergence with IFRS.

IASB indicated that following input from interested parties, it plans to publish a final standard in 2011. Comments on the exposure draft must be received by September 6, 2010.

Questions or comments on this issue should be addressed to Kathryn Ricard (kricard@eric.org).

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[IASB Snapshot](#)

[IASB Exposure Draft](#)

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[Mercer News Release](#)

Senate Begins Debating Financial Regulatory Reform Bill



ERIC Concerned Over Imposition of Fiduciary Duty on Use of Swaps in Pension Plan Investing

After initially failing in procedural votes to begin debate, the Senate last Thursday began debating S. 3217, the Restoring American Financial Stability Act of 2010 sponsored by Senate Banking Committee Chairman Chris Dodd (D-CT).

The legislation incorporates provisions of The Wall Street Transparency and Accountability Act sponsored by Senate Agriculture Committee Chairman Blanche Lincoln (D-AK), which includes stricter provisions concerning the over-the-counter derivatives market than originally proposed by Senator Dodd.

An issue has arisen in the financial reform legislation related to pension plans and use of derivatives and swaps as mechanisms to hedge risk. Lincoln's bill also includes a provision that imposes fiduciary duty on a swap dealer that enters into a swap with a pension plan (section 731 of S. 3217). If swap dealers provide advice to plans, they will be treated as fiduciaries. Although this fiduciary duty would already apply under ERISA, the bill goes farther and treats swap dealers as fiduciaries solely by being on the other side of the transaction with a plan. Because a fiduciary cannot represent the "opposing party" in a transaction, the bill would effectively preclude swap dealers from entering into swaps with pension plans.

Based on discussions with some members, this is a significant issue for them. To that end, ERIC is planning to send a letter this week stating our opposition to this provision. In addition, we would appreciate any other comments or feedback you have on this issue.

Meanwhile, a number of amendments have been offered by members of both parties, and the debate could drag on for a couple of weeks. At the moment, it appears that the Bureau on Consumer Financial Protection is the main hurdle between Democrats and Republicans on financial services reform.

Questions or comments on this legislation should be addressed to Kathryn Ricard (kricard@eric.org).

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[Summary of Agriculture Committee Changes](#)

[Senate Banking Committee Report](#)

[Summary of Dodd Bill](#)

Legislation Introduced Regarding Misclassification of Workers



Legislation that would require employers to maintain records of *nonemployees* who perform services for pay and that would impose increased penalties for those employers who misclassify employees as independent contractors was introduced recently in both the House and Senate. In addition, the Department of Labor has indicated it would take enforcement, and possibly regulatory action.

Senator Sherrod Brown (D-OH) and Representative Lynn Woolsey (D-CA) introduced identical legislation on April 22 supported by Labor Secretary Hilda Solis.

The Employee Misclassification Prevention Act (S. 3254, H.R. 5107) would:

- Increase the record-keeping requirements regarding independent contractors
- Increase penalties on employers that misclassify employees as independent contractors and who violate employees overtime and minimum wage rights with fines of \$1,100 per employee for first-time violators and up to \$5,000 repeat offenders
- Require employers to notify workers of their status as an employee or nonemployee
- Direct states to strengthen penalties for worker misclassification
- Permit Department of Labor and the Internal Revenue Service to refer violations to each other
- Direct the Department of Labor to perform targeted audits in industries that frequently misclassify workers

Policymakers have focused on contingent workforce issues in the past. We highlight these bills for your attention because there is a concern among some policymakers that as the economy recovers from the recession, employers will be hesitant to hire full-time workers and may rely on independent contractors in greater numbers. As a result, some policymakers support a higher standard of documentation for independent contractors, increased enforcement, as well as a more stringent view of who are independent contractors.

Please review the legislation and provide Kathryn Ricard (kricard@eric.org) with your feedback on the legislation as well as your thoughts regarding the following:

- The increased recordkeeping requirements related to independent contractors;
- The requirement to notify workers of their status (employee vs. independent contractor);
- DOL targeted audits on employer procedures regarding worker classification; and
- Increased penalties for violations.

Questions or comments on this legislation should be addressed to Kathryn Ricard (kricard@eric.org).

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[Labor Secretary's Statement](#)

HEALTH CARE COVERAGE

ERIC Biweekly Health Care Reform Conference Call Scheduled for May 6



ERIC's Health Care Task Force continues to examine the intricacies of the new law and is in the process of compiling a list of the questions that we feel are most urgently in need of regulatory answers.

As soon as this list is finished, we will send it to the regulatory agencies in charge of implementation (the Department of Health and Human Services (HHS), Department of Labor (DOL), and Treasury/IRS). We also will circulate this list to ERIC members.

In addition, a small group of members of ERIC's Task Force on Healthcare Reform will be meeting with a number of government regulators to discuss our request for guidance under the "Patient Protection and Affordable Care Act" (PPACA).

ERIC's next biweekly conference call will address key regulatory guidance issues that the ERIC Task Force has identified, as well as recent guidance issued by HHS, including an interim final rule just issued on the reinsurance program for early retirees in employer plans.

To participate in this call, RSVP by writing to erichpc@eric.org, and you will receive an automated response with the conference-call information.

Questions or comments on health reform should be addressed to either Gretchen Young (gyoung@eric.org) or Adam Solander (asolander@eric.org).

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[Key Health Reform Documents](#)

ERIC Warns Mental Health Parity Aggregation Rule Will Force Coverage Retreat



ERIC on May 3 submitted comments on interim final regulations implementing the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA). The Departments of Labor, Health and Human Services, and Treasury published the interim final regulations in the *Federal Register* on February 2, 2010.

ERIC's letter argues, among other things, that the interim final regulations create an unprecedented and unacceptable new aggregation rule, and that the Department should continue to rely on the anti-abuse rule proposed in 2004, which requires the aggregation of separate plans only to the extent necessary to prevent evasion of the parity requirements.

The letter contends that MHPAEA does not mandate that all mental health or substance use disorder benefits provided by an employer be subject to the parity requirements, even if they are offered under a separate plan that provides no coverage for medical and surgical benefits.

ERIC contends that, if the Departments believe it is necessary to abandon the accepted definition of a "group health plan" and adopt an unprecedented new mandatory aggregation rule, the Departments should publish the new rule as a proposed regulation, as opposed to an interim final rule, to provide an opportunity to comment on the rule before it becomes effective.

ERIC also recommends that the regulations should make clear that the parity rules do not apply to group health plans that cover only retirees, and that the effective date should be delayed for collective bargaining agreements ratified before the regulations were published.

Questions or comments on this issue should be addressed to either Gretchen Young (gyoung@eric.org) or Adam Solander (asolander@eric.org).

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Labor Department's Spring Regulatory Agenda Features Key Employee Benefit Issues

Borzi Says DOL to Accelerate Claims and Appeals Regulations Because of PPACA

The Department of Labor recently released a spring update to its regulatory agenda highlighting priority items over the next several months that includes an initiative on health claims and appeals under ERISA and PPACA.



In addition, Assistant Secretary Phyllis Borzi recently participated in a live web chat where she said that proposed regulations under the Patient Protection and Affordable Care Act will have the highest priority during the next several months, and that her agency is working in close coordination with HHS, Treasury and IRS on staged guidance, focusing first on provisions that are effective for plan years beginning on or after September 23, 2010.

Borzi said that DOL's benefit advisors and investigators contend that there are significant problems with health claims procedures under ERISA. She also noted that the Department has filed several amicus briefs where either the procedures or compliance with the procedures appeared to be deficient, and that the proposed rulemaking is intended to strengthen the current rules governing the internal claims and appeals process, "especially on notice, disclosure and full and fair review requirements." Borzi added that they originally targeted April 2011 for publication of a proposal, but that date was determined prior to the enactment of the PPACA and it is very likely that EBSA will accelerate publication.

In all likelihood, new rules for claims and appeals will be bifurcated to first meet the requirements of PPACA and DoL will then take another bite at the apple in additional ERISA regulations to "ERISAFy" rules for health care coverage claims.

Spring Regulatory Agendas

The Department of Labor's spring regulatory agenda listed guidance projects covering a wide variety of issues, including an amendment to the claims procedure regulation, and guidance on fee disclosure, investment advice, and target date funds. [Click here](#) for a list summarizing EBSA's proposed rules and target deadline for issuing the rules.

The Treasury Department also recently released its spring regulatory agenda, which includes several important proposed and final rulemaking actions. [Click here](#) for a sampling of Treasury's priority employee benefit guidance items.

Questions or comments on the health related items should be addressed to Gretchen Young (gyoung@eric.org) or Adam Solander (asolander@eric.org), and on the retirement-related proposals to Kathryn Ricard (kricard@eric.org).

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[EBSA Web Chat with Assistant Secretary Borzi](#)

[Unified Agenda of Regulatory and Deregulatory Actions](#)

HHS Releases Interim Final Rule on PPACA Early Retiree Reinsurance Program



The Department of Health and Human Services on May 3 released a copy of its interim final rule on the Early Retiree Reinsurance Program, a \$5 billion fund created under the Patient Protection and Affordable Care Act (PPACA).

This temporary reinsurance program will reimburse 80% of claims between \$15,000 and \$90,000 for employer-sponsored retiree coverage of individuals 55 to 64 years old who are not active workers or eligible for Medicare. The program will start on June 21, 2010, and will sunset on January 1, 2014.

The 81-page regulation describes in detail how the program will work, which claims will be covered (i.e., when the claims must be incurred and paid), how the reimbursement money must be used, which cost containment programs must be implemented in order to gain reimbursement, and how reimbursements must be allocated, among other things.

Although the regulation is an interim final regulation effective on June 1, 2010, HHS will accept comments on the regulation if received within 30 days of publication of the regulation in the *Federal Register*.

If your company has comments or questions on the regulation, please let Gretchen Young (gyoung@eric.org) or Adam Solander (asolander@eric.org) know.

IRS Issues Notice on Tax Implications of Extending Coverage to Adult Children



The first wave of guidance under the "Patient Protection and Affordable Care Act" (PPACA) has commenced. The IRS last week issued Notice 2010-38, which addresses questions about the tax implications of the Act's new rule requiring plans to cover adult children up to age 26.

The new Notice provides that as of March 30, 2010, parents who add their non-dependent adult children to their employer-sponsored health plans will not face imputed income on either the amounts received under the health plan (Internal Revenue Code section 105) or on the amounts contributed by the employer to the plan (IRC section 106).

For the full article on this issue, [click here](#).

Questions or comments on the Notice should be addressed to either Gretchen Young (gyoung@eric.org) or Adam Solander (asolander@eric.org).

[Notice 2010-38](#)

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ERISA Advisory Council Releases Background Documents on 2010 Study Topics



The ERISA Advisory Council recently published background documents that provide detailed descriptions and objectives of the topics to be studied this year by the Council. Following its first meeting of the year held March 22, the Council said it will study topics related to pension plan audits, health care literacy, and the disparity between women and minorities related to pension plans.

With respect to pension plan audits, the Council said it plans to identify what actions the Labor Secretary may take with respect to ERISA's audit requirement and financial reporting model to improve the Department of Labor's (DOL) oversight of employee benefit plan audits in order to enhance retirement security in the United States.

The Council also said it will gather information from various sources to determine the state of retirement and health care for minorities and women and to understand the causation of the conditions discovered. In addition, the Council said it plans to offer recommendations concerning the role of DOL in addressing the issues and in influencing stakeholders, benefit plan designs that positively impact these groups, and guidance to plan sponsors regarding the collection and utilization of data by race and gender.

The Council also plans to study health care literacy to assist DOL in developing standards for use by group health plans and issuers; to determine whether DOL should take steps to assist employers in their efforts to promote health care literacy; and whether DOL should provide tools or other resources to employees and retirees that promote health care literacy. Among the questions the group hopes to answer is whether DOL's proposal to change the definition of "welfare benefit plan" would affect those standards.

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[Disparities for Women and Minorities in Retirement and Health Care](#)

[Healthcare Literacy](#)

HHS Establishes Office of Consumer Information and Insurance Oversight to Help Implement Reforms



The Department of Health and Human Services has established an Office of Consumer Information and Insurance Oversight responsible for ensuring compliance with the new insurance market rules, overseeing the new medical loss ratio rules, assisting states in reviewing insurance rates, and providing guidance and oversight for the state-based insurance exchanges.

In addition, the office will administer the temporary high-risk pool program and the early retiree reinsurance program, and compile and maintain data for an internet portal providing information on insurance options.

Jay Angoff is the new Director of the OCIO for the Department of Health and Human Services.

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CLIPPINGS

Some stories may require registration or a subscription.

[The Washington Post: Health insurers adopt some new rules early](#)

Excerpt: "Employers are reluctant to make a short-term change before they know the long-term rules, said Gretchen Young, senior vice president for health policy at the ERISA Industry Committee, which takes its name from a federal law. Employers are trying to figure out how to implement the provision, not just when. Questions include whether they will charge families additional premiums to let young adults stay on or rejoin their health plans."

[PLANSPONSOR: Mercer Estimates 38% of Employers to be Penalized for Unaffordable Coverage](#)

Excerpt: "More than a third of the nation's employers have at least some employees for whom coverage would be considered "unaffordable" under the newly enacted Patient Protection and Affordable Care Act (PPACA), according to a new analysis of data from Mercer. Using a calculation that compares the contribution requirements for an employer's most subscribed medical plan to the average full-time employee salary in their organization, Mercer found that 38% of all employers have at least some employees for whom coverage would be considered unaffordable."

[The New York Times: Some Retirees Will Receive Aid to Pay Health Bills](#)

Excerpt: "The White House announced Tuesday that it would help pay medical bills for early retirees who have health insurance provided by their former employers. The purpose of the temporary \$5 billion program, authorized by the new health care law, is to reverse the erosion of employer-sponsored insurance."

[ICI's 50th Edition of Investment Company Fact Book](#)

The Investment Company Institute's annual compilation reports on retirement assets, characteristics of mutual fund owners, use of index funds, and other trends.

[PLANSPONSOR: GOP Group Opposes Administration Proposals for Retirement Plans](#)

Excerpt: "The House GOP Savings Recovery Solutions Group wrote to Labor Secretary Hilda Solis and Treasury Secretary Timothy Geithner to oppose proposals that would affect private-sector defined contribution retirement plans. The letter noted that in the Annual Report of the White House Task Force on the Middle Class, Vice President Joseph Biden discussed at length the creation of so-called 'Guaranteed Retirement Accounts, (GRAs)' which would provide for protection from 'inflation and market risk' and potentially 'guarantee a specified real return above the rate of inflation' -- presumably at taxpayer expense."

[U.S. News & World Report: Employers: 401\(k\)s Won't Fully Fund Worker Retirement](#)

Excerpt: "Employers generally offer 401(k)s to attract and retain productive workers, not to propel those employees into a secure retirement. The majority of companies (51 percent) offer a 401(k) to keep high performing employees happy, according to a recent Wells Fargo and Boston Research survey of 357 employers. Less than half (45 percent) of the firms say their benefit programs primarily aim to help workers achieve a financially sound retirement."

[USA Today: Workers fight uphill battle on 401\(k\) retirement savings](#)

Excerpt: "When employers first rolled out 401(k) savings plans, the message was clear: Take control of your own retirement destiny. Invest your money as you see fit. Choose from among many different options. Now, more than a year after the worst bear market since the Depression, 401(k) accounts are close to being where they were at the peak of the market in 2007 — thanks in large part to workers' own contributions. But the bear market and recession have also realized some of the shortcomings of a 401(k) plan."

[The Wall Street Journal: The Insurance Mandate in Peril](#)

Excerpt: "A 'tell' in poker is a subtle but detectable change in a player's behavior or demeanor that reveals clues about the player's assessment of his hand. Something similar has happened with regard to the insurance mandate at the core of last month's health reform legislation. Congress justified its authority to enact the mandate on the grounds that it is a regulation of commerce. But as this justification came under heavy constitutional fire, the mandate's defenders changed the argument—now claiming constitutional authority under Congress's power to tax."

[Journal of Accountancy: Health Care Reform Reshapes Tax Code](#)

Excerpt: "In March, Congress passed two pieces of legislation designed to reform the U.S. health care system. The Patient Protection and Affordable Care Act (PL 111-148) was enacted on March 23, and was quickly followed by the Health Care and Education Reconciliation Act of 2010 (PL 111-152), which amended several portions of the first act, as well as adding new provisions of its own. While the legislation generally deals with the health care system, it contains many revisions to the Internal Revenue Code."

[PLANSPONSOR: COBRA Subsidy Challenge Gets Derailed](#)

Excerpt: "A federal judge in Washington has ruled that employees suing to force an employer to allow a Consolidated Omnibus Budget Reconciliation Act (COBRA) health care coverage premium subsidy must first go through all applicable administrative procedures. U.S. District Judge Rosemary M. Collyer of the U. S. District Court for the District of Columbia ruled that the American Recovery and Reinvestment Act of 2009 (ARRA) states that its COBRA-related provisions should be treated as though they are part of the Employee Retirement Income Security Act (ERISA). Since ERISA contains similar administrative remedies limits, Collyer asserted, then claims under ARRA should be handled similarly."
