

# Weekly Digest

• February 27, 2024 •

EMPLOYEE  
BENEFITS

## Upcoming Compliance Deadline for Group Health Plans

"Disclosure to CMS involves certifying that your plan's prescription drug coverage is at least as good, actuarially speaking, as the standard coverage offered by Medicare. While this may seem difficult to quantify (and it is!), CMS provides a general basis against which you can measure your plan's coverage to determine whether it is creditable." [Full Article](#)

*Reid and Riege, P.C.*



## The MHPAEA Proposed Rule: 'Meaningful Benefits' and the 'Scope of Services'

"The newly proposed meaningful benefits requirement is separate from, and in addition to, the newly prescribed nonquantitative treatment limitation (NQTL) testing standards. A handful of comments nevertheless urge the regulators to add scope of services to its non-exhaustive list of NQTLs. The problem is that a plan's scope of services -- what types of treatments a plan will pay for and in what settings -- is a high-level plan design feature and not an NQTL."

[Full Article](#)

*McDermott Will & Emery*

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## Federal Regulators Unveil Revised Final Guidance for Healthcare Cybersecurity and HIPAA Compliance

"HHS and NIST issued **new guidance** to provide information and serve as a resource for HIPAA-regulated entities to improve cybersecurity and compliance with the HIPAA Security Rule. The guidance comes after HHS announced a new carrots-and-sticks strategy to improve cybersecurity in the healthcare industry with additional resources and a proposal to increase civil penalties for data breaches to incentivize security measures." [Full Article](#)

*Ogletree Deakins*



### Group Health Plan Fiduciaries May Now be a Target of Lawsuits for Excessive Fees

"In light of the J&J case and recent uptick in group health plan litigation alleging breach of fiduciary duty, group health plan fiduciaries may wish to evaluate their current fiduciary governance structure to ensure a process is in place for selecting and monitoring group health plan service providers. This may include a renewed focus on contract terms and monitoring group health plan costs, especially prescription drug costs and the amounts paid to PBMs and the plans' consultants and administrators, in order to ensure such costs remain reasonable." [Full Article](#)

*Smith, Gambrell & Russell, LLP*

### No Surprises Act Disputes Continue to Rise, Providers Blame Insurers

"The IDR has struggled to keep up with the substantial number of submissions since the portal was opened in 2022. According to CMS, the majority of these disputes were initiated by a small number of providers, who have been vocal in their belief of insurers taking advantage of the law." [Full Article](#)

*HealthLeaders / HCPro*



### The Shifting Regulatory Landscape for Level-Funded Plans: An Alternative for Group Health Insurance

"Level-funded health plans are steadily gaining ground as a viable middle approach between fully insured health plan and self-funded health plans. Their growing popularity, however, is now catching the attention of both lawmakers and regulators who are concerned about the lack of regulation that exists between fully insured and self-insured plans, particularly regarding the use of stop-loss insurance." [Full Article](#)

*Fenwick & West LLP*