

# Weekly Digest

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EMPLOYEE  
BENEFITS

## Are HIPAA Covered Entities and Business Associates Required to Have a Risk Analysis and a Risk Management Plan?

"The risk analysis must address all ePHI across the entire enterprise and identify deficiencies in compliance programs when compared to the HIPAA security rule. Based on the results of the risk analysis, the risk management plan is created to determine what safeguards need to be implemented to bring the identified risks and vulnerabilities to a reasonable level." [Full Article](#)

*Thomson Reuters / EBIA*



## IRS Alert: Beware of Companies Misrepresenting Nutrition, Wellness and General Health Expenses as Medical Care for FSAs, HSAs, HRAs and MSAs

"Some companies mistakenly claim that notes from doctors based merely on self-reported health information can convert non-medical food, wellness and exercise expenses into medical expenses. Such a note would not establish that an otherwise personal expense satisfies the requirement that it be related to a targeted diagnosis-specific activity or treatment." [Full Article](#)

*Internal Revenue Service [IRS]*

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*By, Thomson Reuters / EBIA*

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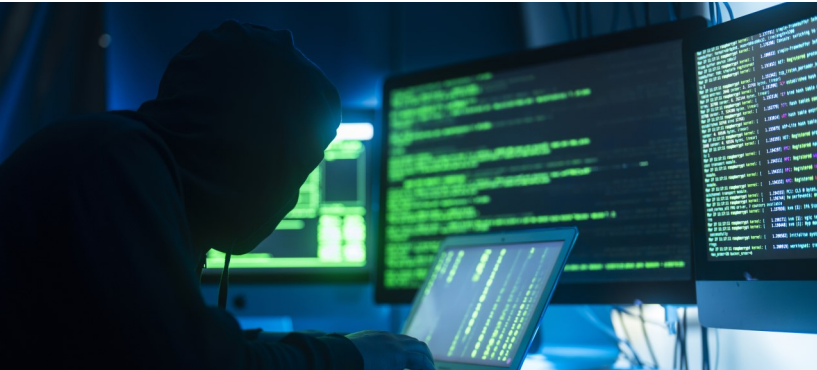
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*By, Seyfarth Shaw LLP*

## ACA-Required Coverage of Contraceptive Care Remains Agency Focus

"Medical management techniques within a specific contraceptive category will be considered reasonable if the plan covers, without cost sharing, all FDA-approved contraceptive drugs and drug-led devices, other than those for which there is at least one therapeutic equivalent drug or drug-led device that is covered without cost sharing. When a therapeutic equivalent treatment is covered, the departments expect health plans to have a reasonable exceptions process available." [Full Article](#)

*Ogletree Deakins*



## Hacking at UnitedHealth Unit Cripples A Swath of the US Health System: What to Know

"Change Healthcare issued a brief statement saying some of its applications were 'currently unavailable.' By the afternoon, the company described the situation as a 'cyber security' problem. Change Healthcare's business is maintaining health care's pipelines -- payments, requests for insurers to authorize care, and much more. The American Hospital Association says many of its members aren't getting paid and that doctors can't check whether patients have coverage for care." [Full Article](#)

*KFF Health News*

## Court Finds Health Plan Not Required to Furnish Administrative Service Agreements in Response to ERISA Document Request

"The court commented that while ERISA includes the term 'contract' in its list of documents that must be furnished, this does not include all contracts between a plan and its service providers. It explained that ASAs are not subject to disclosure because they: [1] govern only the relationship between the employer and claims administrator; and [2] do not govern the relationship between plan participants and the employer." [Full Article](#)

*The Wagner Law Group*



## Employers Consider Post-Dobbs Playbook in Dealing with Alabama Ruling on IVF Treatments

"The IRS has not directly addressed the issue of whether cryogenic preservation of an embryo constitutes a qualifying medical expense. While there is some support for the premise that short-term freezing may be a qualifying expense, there has historically been a debate as to whether long-term storage would qualify. This ruling may shift that debate. This raises the question of whether an embryo could be a covered dependent under an employer's health plan. Presumably, covering travel benefits for purposes of initiating IVF treatments outside of Alabama would be a covered benefit for the same reasons as accessing abortion." [Full Article](#)

*Seyfarth Shaw LLP*