Weekly Digest

• November 7, 2023 •

Agencies Propose Extensive Modifications to Regulations Implementing Surprise Billing IDR

"Several provisions of both the interim final and final regulations, as well as related agency guidance, have been vacated in a series of cases brought by an association of health care providers. In response, the agencies recently issued proposed regulations addressing IDR fee issues raised by the litigation and, among other things, partially shut down and reopened the federal IDR portal multiple times. The agencies now propose additional regulations to adjust the IDR process and change the fee structure. Here are highlights." **Full Article**

Thomson Reuters / EBIA



Reminder: Gag Clause Attestations Due by Year-End

"[1] Review applicable contracts to ensure that they do not contain prohibited gag clauses. [2] If the group health plan is fully insured, confirm that the insurer will make the Attestation on behalf of the plan. [3] If the group health plan is self-insured, it may be possible to delegate the responsibility for completing the Attestation to the plan's TPA. [4] Review existing agreements with insurers/TPAs to ensure that the agreement includes a 'compliance with applicable law' provision." Full Article

Faegre Drinker Biddle & Reath LLP



In This Digest

PAGE 1

Agencies Propose Extensive Modifications to Regulations Implementing Surprise Billing IDR By, Thomson Reuters / EBIA

Reminder: Gag Clause Attestations Due by Year-End By, Faegre Drinker Biddle & Reath LLP

PAGE 2

The Self-Funded Plan's Guide to Gender-Affirming Coverage By, Hall Benefits Law

Fact Sheet #66e: The Davis-Bacon and Related Acts — Compliance with Fringe Benefit Requirements By, Wage and Hour Division, U.S. Department of Labor

Winston & Strawn LLP: Benefits Bulletin — IRS Increases PCORI Fees Payable in 2024

By, Winston & Strawn LLP

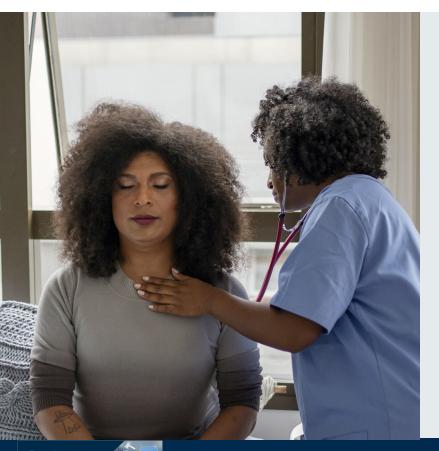
Page 1



Self-Funded Plan's Guide to Gender-Affirming Coverage

"Whether or how a group health plan (GHP) should cover gender-affirming care is a complex and evolving legal issue. This is especially true of self-funded GHPs, which are generally not subject to the nondiscrimination provisions of the Affordable Care Act (ACA). Both state and federal law are still unsettled. Self-funded GHP sponsors must carefully consider numerous legal factors." **Full Article**

Hall Benefits Law



Fact Sheet #66e: The Davis-Bacon and Related Acts — Compliance with Fringe Benefit Requirements

"The following practices may lead to violations under the DBRA, resulting in failure to pay the applicable prevailing wage rate: [1] Misclassifying laborers and mechanics for the type of work performed; [2] Failing to obtain prior approval from the DOL for unfunded fringe benefit plans; [3] Failing to annualize (or incorrectly annualizing) the hourly equivalent of fringe benefit amounts. [4] Paying hourly rates and/or fringe benefit amounts pursuant to a Collective Bargaining Agreement (CBA), where the CBA specifies rates lower than those required in the applicable wage determination; and [5] Improperly taking credit towards fringe benefit obligations for certain expenses." Full Article

Wage and Hour Division, U.S. Department of Labor



ACA Reporting Benefits Brief — <u>Download a Copy</u>

Winston & Strawn LLP: Benefits Bulletin — IRS Increases PCORI Fees Payable in 2024

"The new Patient Centered Outcomes Research Institution (PCORI) fee for policy and plan years that end on or after October 1, 2023 and before October 1, 2024 is \$3.22; an increase of \$0.22 per covered life as compared to the PCORI fee assessed on or after October 1, 2022 and before October 1, 2023." Full Article

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