

The Consolidation Appropriations Act, 2021 (CAA 2021), Contains Many Provisions Employers Will Need to Know

New Employer Requirements on Broker Compensation

While Health & Welfare brokers and consultants are abuzz about disclosing “all direct and indirect” compensation under CAA 2021, little has been said about **employers’** added fiduciary responsibilities. Under CAA 2021, employers (as plan fiduciaries) must request all direct and indirect compensation from their broker/consultant. Indirect compensation captures the money insurers and vendors pay brokers and consultants to steer business. Indirect compensation is not entirely captured for 5500 reporting. The requirement applies to all employer sizes, not just to those required to file 5500s. The new regulation pertains to health, dental, vision, EAPs, healthcare FSAs, HRAs and onsite clinics. Employers must request this information on plans new or renewing on or after December 27, 2021. More details may be found at this link: <http://bit.ly/3qAwDEU>

Source: *JD Supra*

The Department of Labor publishes a great overview of the full scope of employer fiduciary responsibilities as they relate to group health. A must read and/or review: <https://bit.ly/3cq190i> Source: *U.S. DOL*

Health and Dependent Care Flexible Spending Accounts (FSA)

The details are too complex to synthesize in this newsletter but the CAA expands opportunities to amend Section 125 “Cafeteria Plans” to allow plan participants more flexibility on how they utilize unused FSA monies through 2022. More details at this link or please feel free to reach out to our consultants: <http://bit.ly/3vfr1U0> Source: *Jackson Lewis*

Surprise Medical Billing

Encompassing more than 300 pages within the CAA, the “No Surprises Act” sets forth new rules that begin in 2022, whereby individuals can no longer be “balanced billed” without their consent when they seek emergency care, when transported by an air ambulance, or when receiving non-emergency care at an in-network hospital but unknowingly are treated by out-of-network physicians or other specialty care services. Such providers are further limited in their ability to charge an employer for the excess costs, such as through the appeals process to dispute the amount being paid by the insurer or an employer’s health plan. The Act requires those issues to be addressed through binding arbitration procedures that must use median in-network rates as a guideline for ultimate dispute resolution. For more information: <http://bit.ly/3vfr1U0> Source: *Jackson Lewis*

Spring into Wellness

Spring is just around the corner. And while many employees are still working from home, it is more important than ever to support your employees’ wellbeing after a long winter! Here are some of our favorite wellness tips that you can share with your employees to help them be healthier and happier:

- Get outside. Take a walk, exercise or go for a hike. Enjoy the fresh air.
- Drink more water. Add a slice of lemon for flavor and to promote detoxification.
- Add color to your plate. Ditch the winter comfort foods and add more fruits and vegetables.
- Sleep. Make sure you are getting the right number of hours for you.
- Spruce up your garden. Don’t have one? Volunteer to help care for the local community garden.
- Put some fresh flowers near your desk or in your favorite living space.
- Do some spring cleaning!

Enjoy the longer days and warmer temps. Be safe too; wear a mask and social distance around others.



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COVID-19 Vaccines: What does 95% Efficacy Actually Mean?

Most everyone has read that the efficacy of the Pfizer COVID vaccine is 95%. But what does that mean? One common misunderstanding is that 95% efficacy means that in the clinical trial, 5% of vaccinated people got COVID. But that's not true; the actual percentage of vaccinated people in the Pfizer trials who got COVID-19 was about a hundred times less than that: 0.04%.

What the 95% actually means is that vaccinated people had a 95% lower risk of getting COVID-19 compared with the control group participants, who weren't vaccinated. In other words, vaccinated people in the Pfizer clinical trial were 20 times less likely than the control group to get COVID-19.



An important note, all three COVID vaccines were 100% effective at preventing severe disease six weeks after the first dose (for Moderna) or seven weeks after the first dose (for Pfizer and Johnson & Johnson, the latter of which requires only one dose). No vaccinated people in any of the trials were hospitalized or died of COVID-19 after the vaccines had fully taken effect. More interesting details can be found at this link.

Source: JD Supra: <http://bit.ly/3qyEUcd>

New Guidance on Health Plans COVID Extensions

In May of 2020, in response to the national emergency caused by the COVID-19 pandemic (National Emergency), the U.S. Department of Labor, Department of the Treasury, and IRS (collectively, the Agencies) issued guidance extending the timeframes for some actions with respect to employee benefit plans and their participants and beneficiaries. On February 26, 2021, the Agencies released EBSA Disaster Relief Notice 2021-01, which provided new guidance regarding the termination of these extensions.

The Initial Guidance provided that all group health plans, disability and other employee welfare benefit plans, were required to disregard the period from March 1, 2020, until 60 days after the announced end of the National Emergency (the Outbreak Period) in determining the following periods and dates:

- Deadline to elect COBRA;
- Deadline to pay COBRA premiums;
- Deadline to elect HIPAA special enrollment;
- Deadlines to file claims, appeals, and requests for external review; and
- Deadline for plan to provide COBRA election notice

Under the applicable statutes, the Agencies' suspension authority in connection with the National Emergency was limited to one year, scheduled to end 2/28/21. Just prior to the end of the one year limit DOL, HHS and IRS released Disaster relief Notice 2021-01 interpreting the extensions to apply on a person by person basis. Specifically the extensions are to end the earlier of:

- One year from the date the deadline would have begun running for that individual; or
- 60 days from the end of the National Emergency (which is still ongoing).

Specific examples and more information can be found here:

<http://bit.ly/3qDQ93k> Groom Law Group

20th Anniversary of Nixon Benefits

Twenty years ago, Karen Nixon chose to create a firm dedicated to making a difference for employers by pursuing price transparency in the health plan industry. Today, our team is proud of our national recognition by the Society of Actuaries for making a true difference. We are also very grateful for our clients whose trust is instrumental in reaching this milestone.



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