



Upcoming HR & Compliance Events

2011 Webinar Series

Third Wednesday of each month

9:00 a.m. to 10:00 a.m. PST.

March 16

Health Care Reform Update: Review of Required Notices and Other Reporting or Disclosure Requirements under PPACA

April 2

Strategy Building – Developing a Three to Five Year Wellness Plan

May 18

Legalities of Creative Plan Design

June 15

Benefit Plan Compliance – Would Your Plans Survive an Agency Audit?

FEBRUARY WEBINAR REMINDER

Health Care Reform Update and Review of Enhanced Claims and Appeals Process Under Health Care Reform – an ERISA Perspective

Wednesday, February 16th, 2011

9:00 a.m. to 10:00 a.m. Pacific

After a brief update on Health Care Reform, during this webinar we will review the changes under health care reform to ERISA's internal claims procedures and external appeals rules. We will also discuss ERISA's preemption of state law, as well as its "savings" and "deemer" clauses and their impact on employee benefit plans.

Speaker: Stacy Barrow, Esq., Stacy H. Barrow is an Associate in the Labor & Employment Law Department and a member of the Employee Benefits, Executive Compensation and ERISA Litigation Practice Center and the Health Care Reform Task Force. Stacy has experience dealing with qualified retirement plans, welfare and fringe benefit arrangements. He counsels his clients on issues arising under the various laws and regulations governing these types of arrangements, including ERISA, COBRA, HIPAA, the Internal Revenue Code and other federal and state laws. Stacy has lectured frequently to business groups across the country on all matters relating to employee benefits and national health care reform. He also has published several articles on employee benefits matters.

TO RSVP

Please email Pam Snead at psnead@pwadmin.com or call us at

1.888.778.0771. ext. 106

[Click here to access the 2011 schedule](#)

Legal Ease
Peter Marathas,
BAN Compliance
Director

Federal Court in Florida Declares the Patient Protection and Affordable Care Act as Unconstitutional

January 31, 2011

On January 31, 2011, Federal Court Judge Roger Vinson in the U.S. District Court for the Northern District of Florida declared the Patient Protection and Affordable Care Act (the "Act") to be unconstitutional.

The case, *Florida v. HHS*, N.D. Fla., No. 10-91, brought by 26 different

states and a few interest groups and individuals, is the latest of the leading cases to be decided. While there have been conflicting decisions regarding the constitutionality of the Act's individual mandate (the part of the Act that will require all U.S. citizens to pay a penalty if they do not obtain health care insurance by 2014), this is the first case to find the entire Act unconstitutional.

In short, Judge Vinson held that Congress exceeded its authority under the Commerce Clause of the U.S. Constitution in enacting the individual mandate. Further, and more importantly, because the individual mandate is "inextricably bound" to the remainder of the Act, he ruled it cannot be severed. In fact, for political reasons, the Senate did not include a "severability clause" in the Act. (A severability clause is often included in legislation and provides that if a court finds any part of a law to be invalid, the remainder of the law will remain in place.) Therefore, the judge found the entire health care reform law to be unconstitutional.

Notably, Judge Vinson's conclusion is not shared by the other federal judge, Henry Hudson of Richmond, Virginia, who determined...[click here to continue reading.](#)

The ERISA Litigation Newsletter

In this issue:

- Pending Sixth Circuit Case Has Implications for Directed Trustees, Participant-Directed Plans
- Retiree Rights Roundup 2010
- Rulings, Filings, and Settlements of Interest

[Click Here](#) for the complete articles

Resources, Tools



New Partnership with IBI!!

If you are looking for more data to support your benefit decisions, our relationship with Integrated Benefit Institute helps provide the necessary information. IBI's tools are designed to help you stay up-to-date, by providing the latest in health and productivity resources for proving the business value of health.

[IBI's three program areas](#) – Research, Measurement and Forum – generate a wealth of independent information available to employers and their benefits partners. No matter what you are looking for:

- Tools to measure health-related lost time
 - Benefits benchmarking by industry group and plan design
 - Calculators for full costs and lost productivity
 - Inexpensive estimates of your workforce absence and presenteeism
 - Reports and analysis on the latest in health and productivity research
 - Short, focused presentations of IBI research results
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If you would like to know more about our services agreement with IBI and the preferred pricing available to clients please contact Jeff Gardenhire at 916.631.7887 ext. 103.

More information on IBI can be found at www.ibiweb.org

Health & Wellness

Wear RED: February is American Heart Awareness Month

If you have not visited the [American Heart Association](http://www.heart.org) website you may want to give it a look especially if you are looking for added resources to support your wellness program. The website has a number of [resources available](#) to employers to promote wellness in the workplace and to employees better manage their health.

Helping Employers See Wellness Program ROI

U.S. businesses are spending more on wellness programs, but less than half really know what they're getting for their money. That's one of the conclusions of "WORKING WELL: A Global Survey of Health Promotion and Workplace Wellness Strategies," released this month by Buck Consultants. MHN shows how we can deliver a [healthy return on employers' investments](#).

California Legislation & News

CA State Tax Treatment of Adult NonDependents

By Michael Saab

Soon after the passage of health care reform, the IRS revised its regulations so parents who kept their adult nondependents (now just a dependent by federal standards) children on the health plan coverage would not pay taxes on the value of the benefit coverage.

Unlike the IRS, the California EDD has issued language and guidance determining the value of health coverage for an adult nondependent must be included as imputed income to the employee on the W2. The employee will pay state taxes on the Fair Market Value of the coverage for the adult nondependent.

For 2011, employers have time to prepare and their has been legislation introduced to provide a fix for future tax years. For employers that added the dependent to age 26 provision prior to January 1st they are required to comply for the 2010 tax year.

What does this mean? "It's an added burden on businesses with little time react for 2010," said Jeff Gardenhire, partner and benefit consultant with PWA. "Once again California has decided to go its own way and to make it more difficult, the EDD example and language does not work well in all situations."

EDD webpage on [Adult NonDependents](#) and the example provided by EDD.

<i>Premium including nondependent adult child</i>	<i>\$987</i>
<i>Premium excluding nondependent adult child</i>	<i>\$683</i>

The EDD equation on how to determine the FMV of the dependent coverage only works in limited situations. It does not address if someone has multiple children and there is no premium difference whether it is one or six children.

Employers are encouraged to comply for the 2010 tax year and watch for legislation to be passed addressing the issue for 2011.

SB 1163 – New 60 Day Renewal Notice for Small Group Employers and Individuals

Effective **January 1, 2011** there are some changes to the employer and individual renewal process that must be followed in accordance with the new legislation (SB 1163).

Carriers will now be required to follow the guidelines below for the renewal process for both individuals and small group employers (defined as 2 to 50 employees). The following provisions now apply;

- It is now a requirement for health plans and insurers to provide a minimum **60-day notice to employer groups and individuals for rate increases, benefit changes or group terminations prior to the effective date of the change.**
- Carriers are required to provide renewal notices to group and individual clients at least **60 days ahead of renewal.**

If you have not received notification from your carrier yet on the new details you should receive a notice very soon on any changes. In addition, this helps expedite the renewal to PWA for review and provides a better opportunity for smaller employers to communicate benefit materials to employees during open enrollment annually.

Kaiser 2011 Fee Schedule Available

For those of you that offer either health savings account eligible plans, HRA or the deductible plans through Kaiser Permanente, the 2011 fee schedule for services is available on the Kaiser website. These listing are used for DHMO, HSA and HRA members who want to estimate their out of pocket costs. More information on estimates can be found at this website as well as more information on Deductible Plans and how they work with Kaiser members. Check the site out!
www.kp.org/deductibleplans

Recent Articles & Reports

Winning over the skeptics to introduce financial education

Employers gradually are becoming aware that the financial health of employees can have a resounding impact on a number of job-related factors, including absence, presenteeism, disability, retention and

turnover, and productivity.

[Continued here »](#)

Cost of Obesity Approaching \$300 Billion a Year

The total economic cost of overweight and obesity in the United States is \$270 billion per year while the cost in Canada is about \$30 billion a year, a new study shows. [HealthDay | Jan 12, [Health & Wellness](#), [Bridge for Well-Being](#), [Health Insurance](#)]

Survey: More employers adopt auto-plan designs

New data by Aon Hewitt show 57 % of 401(k) plan sponsors offered automatic enrollment in 2010, compared to 24% in 2006. Thirty-six percent of plan sponsors who don't offer the feature said they are likely to add it in 2011.

[Continued here »](#)

Dealing with depression in the workplace

John Frederick, chief medical officer at PreferredOne, discusses strategies for handling depression in the workplace, a condition he calls the "silent nightmare" of the corporate environment.

[Continued here »](#)
