

# COMPLIANCE News to Know

Benefits News from November 20th - December 1st, 2023 V2.18



**PATRIOT**  
GROWTH INSURANCE SERVICES  
COMPLIANCE ✓

## Upcoming...

December 14 - Patriot EB Webinar: **Fines & Penalties in Benefits Compliance**: Register Here: **Fines & Penalties**

December 31 - First Gag Clause Attestation filing due. Plans and Issuers **file via CMS' HIOS Portal**

January 1, 2024 - Price Comparison Data must be available for certain Plans and issuers subject to the TiC Act

## EB Headline: HHS Levies 1st Penalty for ePHI Breach due to Ransomware

### Business Associate hit with \$100K Penalty & 3 Year Corrective Action Plan (CAP)

Editor's Note: *The Office of Civil Rights (OCR) Oversees enforcement of HIPAA's Privacy and Security Rule for Covered Entities (CEs) such as health plans, health care providers, and healthcare clearinghouses. OCR also levies penalties against Business Associations (BAs) of CEs. **BAs have direct liability under HIPAA**, and these should be reflected in Business Associate Agreements (BAAs). The following article illustrates what happens when a BA does not implement a Security Rule risk analysis. Benefits advisers are likely BAs & must comply with HIPAA's Security Rule regarding security of Protected Health Information (PHI). This means doing your part to support a security risk assessment, creating a security policy, and implementing administrative safeguards to protect PHI. Contact your compliance department with questions about your company's HIPAA compliance program.*

HHS issued a settlement agreement with a MA-based medical management company for potential violations of HIPAA's Privacy and Security Rules. As a BA, they provided services to HIPAA CEs that included payer credentialing and medical billing. Under the agreement, they must:

- Pay \$100,000 to resolve the action.
- Comply with a three-year corrective action plan (CAP).

The settlement is HHS's first agreement involving a ransomware attack.

*\*Original article courtesy of Thompson Reuters/Practical Law EB & Executive Compensation.*



## IRS Releases 2024 Adjustments for Health FSAs, DCAPS, Transportation Benefits, etc.

In early November, the IRS released cost-of-living adjusted rates for various tax-related limits, including employee benefit plans, small businesses, and premium tax credits. **Review the full list and read the news release on the IRS' website.** Of note for benefits plans:

### ➤ Health FSAs.

- For 2024, the dollar limit on employee salary reduction contributions to health FSAs will be \$3,200 (up from \$3,050). If the cafeteria plan permits health FSA carryovers, the maximum amount that can be carried over to the 2025 plan year is \$640 (up from \$610).

### ➤ QSEHRAs.

- For 2024, the maximum amount of payments and reimbursements under a QSEHRA will be \$6,150 for self-only coverage and \$12,450 for family coverage (up from \$5,850 and \$11,800, respectively).

### ➤ DCAPs.

- The maximum amount of DCAP benefits that can be excluded from income has not been adjusted for cost-of-living changes. It remains at \$5,000/\$2,500 for 2024 and future years unless extended or otherwise changed by Congress.

### ➤ Premium Tax Credit.

- For taxable years beginning in 2024, the following limitations on the tax for excess advance credit payments will apply:
  - For **unmarried individuals** (other than surviving spouses and heads of household), \$375 for household income less than 200% of the federal poverty line (FPL); \$950 for household income at least 200% but less than 300% of FPL; and \$1,575 for household income at least 300% but less than 400% of FPL.
  - For **all other taxpayers**, \$750 for household income less than 200% of FPL; \$1,900 for household income at least 200% but less than 300% of FPL; and \$3,150 for household income at least 300% but less than 400% of FPL.
- This tax is imposed if a taxpayer's advance premium tax credit payments for health insurance purchased through an Exchange for a year exceed the allowed credit.



## Resource Reminder: 2024 Benefits Compliance Checklist

This **three-page checklist** including annual notices is a great quick-glance guide for employers. Ask your adviser for a hyperlinked copy for *smooth compliance sailing* in 2024.

## Federal Departments: FAQ Part 63 Re: Surprise Billing

The DOL, HHS, and IRS issued **FAQ guidance (Part 63)** on the independent dispute resolution (IDR) requirements under the No Surprises Act, in light of the decision in *Texas Medical Association v. HHS*.

## IRS Releases 2024 Employer's Tax Guide to Fringe Benefits

## Access DOL's Culturally and Linguistically Appropriate Services (CLAS) Guidance

FAQ Part 63: Affordable Care Act's requirement to **provide certain notices in a culturally** and linguistically appropriate manner.

## IRS Releases Guide to Child & Dependent Care Expenses

The IRS released **Publication 503**, a guide to child and dependent care expenses for use in 2023 tax return preparation.

## Reminder: Gag Clause Attestation Due December 31, 2023, by Plans & Issuers

The first annual gag-clause attestation is due by December 31, 2023. Group Health Plans & Health Insurance Issuers must attest that provider network agreements do not contain language restricting the disclosure of cost or quality of care data, and certain other data.

Review **CMS's Guidance Materials**:

- **FAQ**
- **Submission Instructions**
- **User Manual for Submitting the Attestation**

