

Compliance

News to Know



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BENEFITS WATCH

2nd Wednesday each month at 1 pm EST

March 13 – ERISA Essentials
April 10 – ERISA Plan Docs. 101
May 8 – ERISA Plan Docs. 201

[**Register Here!**](#)

Upcoming Deadlines

- ✓ **April 1** - Electronic filing deadline – 1094/1095 Series
- ✓ **June 1** – RxDC Report due [File online via CMS](#)
- ✓ **July 31** – PCORI Fee due for self-funded plans. Complete IRS [Form 720](#)
- ✓ **July 31** - File Form 5500 or Form 5558 for an extension via [eFAST2](#)

Access the [2024 Benefits Compliance Checklist](#) or ask your Patriot Advisor!

RxDC Reporting Instructions Revised for 2024

The annual prescription drug data collection report (RxDC) is due June 1. This relatively new regulation requires plans & insurers to submit data about Rx drugs & healthcare spending. The Centers for Medicare & Medicaid Services (CMS) released [updated reporting instructions](#). Employers must triage with carriers & TPAs as to who will submit the form on behalf of the Plan. **Both fully insured & Self-funded plans must submit the RxDC report.** If TPAs support such plans, secure in writing who will submit the report, when, and require confirmation. For details refer to Sections 1.4 & 3.2 – 3.4 of the instructions.

Plans, issuers, carriers, and their reporting entities are encouraged to work together to submit only one data file of each data file type for the same plan, issuer, or carrier.

A summary of pertinent changes from 2023 is [outlined on Page 3 of the instructions](#). Access more RxDC resources via page 3 below.

March 13th Benefits Watch Webinar

Register here for [ERISA Essentials](#) at 1 pm Est.

When it comes to benefit plan compliance, ERISA is king. Any fund, program, or plan sponsored by the employer to provide benefits to participants or beneficiaries is a health and welfare plan subject to ERISA's requirements. *Benefits* includes the big players: medical, surgical, and hospital benefits. Yet *benefit plans* may also include vacation benefits, scholarship funds, or prepaid legal services. How do you know which plans are subject? Well, it depends. Join Patriot's Benefits Compliance Counsel, Olivia Ash, for a review of ERISA's essential welfare plan requirements.



The Rundown

- HHS [Finalizes Provisions Related to Confidentiality](#) for Patients with Substance Use Conditions.
- External Article: [ERISA Trust Rules for Health Plans - Part 1](#) & [Part 2](#) by Newfront.
- External Article: [Merger & Acquisition Considerations for Employee Benefits Plans](#) by The Wagner Law Group.



RxDC Reporting Resources



[CMG.gov](https://www.cmg.gov)

Under the [Consolidated Appropriations Act, 2021](#) (CAA), insurance companies and employer-based health plans must submit information about prescription drugs and health care spending.

Background: RxDC data tells agencies about spending on Rx drugs & health care services; which drugs account for the most spending and are prescribed most frequently; and outlines rebate, premium, and cost-sharing data. Such data will be used to identify drivers of increases in Rx drugs and promote transparency. The Departments will publish a downloadable summary report about Rx drug trends and the impact on patients.

Resources: assistance with RxDC reporting falls into three sections: primary, other, and manuals.

- **Primary** - Reporting instructions; templates; drug names; & data validations.
- **Other** - FAQs; training dictionary, YouTube playlist, and Federal regulation
- **Manuals** - HIOS Portal Quick Guide & User Manual

Click [here](#) to access the landing page & resources.

The 411 on the Independent Contractor Rule



Effective March 11, 2024, the Department of Labor's (DOL's) Final Rule on employee classification under the Fair Labor Standards Act (FLSA) is live.

Their return to a 6 factor (Fx) "test" to determine whether a person is an *employee or independent contractor* of the employer is creating waves. The DOL clarified these Fxs affect only the FLSA & do not affect other federal, state, or local laws . Access various DOL resources [here](#).

The 6 Factors:

1. Opportunity for profit or loss depending on managerial skill;
2. Investments by the worker and the potential employer;
3. Degree of permanence of the work relationship;
4. Nature and degree of control;
5. Extent to which the work performed is an integral part of the potential employer's business; and
6. Skill and initiative.

The reality of this Final Rule for employers subject to the FLSA: more are likely to be classified as employees, and thus counts change for benefits. Learn more about the [Final Rule](#) by reading the [DOL's FAQs](#).

Fast Facts for HIPAA CEs

Did you know that the HIPAA Privacy Rule does not require Covered Entities (CEs) (Health Plans are CEs) to: obtain a signed consent form before sharing data for treatment purposes; eliminate all incidental disclosures; or cut off all communications to friends & family?

[Learn more about the Privacy Rule for CEs at HHS.gov.](https://www.hhs.gov/hipaa/for-professionals/privacy/rule/)

Create Policies to Help Recoup Unpaid Premiums

By Olivia Ash, Esq., MS



Our client's employee can't (or didn't) pay for premiums.

What actions can the employer take to recoup funds?

I've received various iterations of the following question this past quarter. However, this *fact equation*, as I call it, relies heavily on various circumstances, including the employee's role and, if applicable, leave conditions. The essence of the response is in the first question I ask:

What do the employer's plan & policy documents say about premium payments & benefits?

*Essentially, what does the employer do if the plan participant's pay isn't enough to cover elected benefits when there is no loss of benefits eligibility? **How do the employer's documents support their options?*** Late premium payments may arise when a participant is paid solely on commission and doesn't have income for a period. It may arise due to a garnishment order; time off with no pay; or a change in status.

There is no general IRS guidance; when that happens, we look to similar guidance that has been issued. In cases such as those outlined above, three options used for FMLA leave may apply:

1. Prepayment with special salary reduction; (accelerated)
2. Pay-as-you go on an after-tax basis (deferred); or
3. Catch-up salary reductions (after-tax payment)

If the employer has not yet considered what to do in pay shortage circumstances, review plan and policy documents. Discuss options with counsel. Craft language and processes to support the best options for the business and employee populations. Then document it; communicate it with employees; & maintain it.