

# Compliance

## News to Know



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**BENEFITS WATCH**

2<sup>nd</sup> Wednesday each month at 1 pm EST

June 12 – Fiduciary Duties  
July 10 – Transparency in Coverage  
August 14 – Federal FMLA

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

## Benefits Considerations when Employees Transfer to a New State

Increasing numbers of remote workers generally means an increase in compliance obligations with various states' laws where an employer has never had a "presence." If you touch employee benefits → whether through an HR or legal function → consider the following list of state & local obligations for evaluation:

- ✓ Requiring health coverage
- ✓ Payout of PTO at termination
- ✓ Self-funded plans in the following must report data to the state about health coverage:
  - CA, MA, NJ, RI, & D.C.
- ✓ Registering with Secretary of State
- ✓ Mandatory leave laws
- ✓ State disability & unemployment insurance
- ✓ State and local tax withholding rules
- ✓ State worker's compensation & retirement benefits

Source: [Dickinson-Wright](#)

## Upcoming Deadlines

- ✓ **June 1** – RxDC Report due  
[File online via CMS Reporting Instructions](#)
- ✓ **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](#)

Ask your Arrow Advisor for information on our proprietary Compliance Checklist

## The Rundown

- [Section 1557](#) - FAQs on the Final Rule
- Blog: [Prohibition on Discrimination in Healthcare](#)
- Blog - [When Midyear Changes Take Effect](#)
- Resource: [50-State Telehealth Survey & Interactive Map](#)
- [Psychedelic Drug Therapy](#) Offered by Employers
- Blog: [Separation of Church & State](#) → From ERISA
- [Fact Sheet](#) - DOL Rescinds 2018 AHP Rule
- Blog: [FTC's Health Breach Notification Rule v. HIPAA's Reproductive Privacy Rule](#)
- Blog: FTC's Ban on Noncompete Agreements: [Permissible v. Prohibited Compensation](#)
- IRS: 2024 Tax [Guide to Fringe Benefits](#)
- CMS: [RxDC Reporting Resources](#)
- Medicare: [Simple Method to Calculate Creditable Coverage](#)
- HHS [FAQs: Healthcare Cybersecurity Incident](#)
- [Did you Know?](#) FMLA Eligibility Requires Treatment within 7 Days of Incapacity
- DOL: [Artificial Intelligence in Workplace Systems: Keep Human Oversight](#)
- Blog: How [AI Provides an "Improved Benefits Experience"](#)

## 2025 Health & Welfare Plans: *Applicable Dollar Limits*

<a href="#">IRS Rev. Proc. 2024 - 25</a>	2023	2024	▲	2025
<b>HDHP – Max. annual OOP limit (excluding premiums)</b>				
Self-only coverage	\$7,500	\$8,050	↑	<b>\$8,300</b>
Family coverage	\$15,000	\$16,100	↑	<b>\$16,600</b>
<b>HDHP – Minimum annual deductible</b>				
Self-only coverage	\$1,500	\$1,600	↑	<b>\$1,650</b>
Family coverage	\$3,000	\$3,200	↑	<b>\$3,300</b>
<b>HSA – Annual contribution limit</b>				
Self-only coverage	\$3,850	\$4,150	↑	<b>\$4,300</b>
Family coverage	\$7,750	\$8,300	↑	<b>\$8,550</b>
Catch-up contributions (ages 55+)	\$1,000	\$1,000	=	<b>\$1,000</b>
<b>Excepted Benefit HRA</b>				
Annual contribution limit	\$1,950	\$2,100	↑	<b>\$2,150</b>

### Plan Sponsor [Actions](#)

- Update payroll & plan administration systems.
- Communicate applicable limits to plan participants (e.g. at open enrollment).
  - Update plan documents & summary plan descriptions (SPDs).

## Summer Webinar Schedule



### **June 12 - [ERISA's Fiduciary Duties](#) @ 1 PM EST (45 min.)**

ERISA's five fiduciary duties are the backbone of a strong benefits compliance program - can you name them? Fiduciary is THE buzz word in the benefits industry, yet many employers struggle to understand how the duties apply in day-to-day benefit plan decisions. Patriot's Benefits Compliance Counsel, Olivia Ash, will define an ERISA fiduciary; outline the five duties; review examples of fiduciary plan decisions (and those that are not); and use current court cases to reveal where employers may need to "shore up" plan compliance.

### **July 10 - [The Transparency in Coverage Act](#) @ 1 PM EST (45 min.)**

Oh the TiC of 2020 - the Transparency in Coverage Act - that is. Did you forget about it? It's understandable given it was quickly followed by (and confused with) the Consolidated Appropriations Act in 2021. Join Patriot's Benefits Compliance Counsel, Olivia Ash, to review two provisions of the TiC that apply to benefits plans - the Machine Readable Files requirement and the Price Comparison Tool regulation - and discover what plans should be doing now.

### **August 14 - [Federal Family & Medical Leave Basics](#) & 1 PM EST (60 min.)**

Another FMLA basics webinar? Yes. Since States are enhancing the federal "floor" by offering various versions of paid and unpaid protected leave, let review the process. Join Patriot's Benefits Compliance Counsel, Olivia Ash, for a one-hour webinar to outline the FMLA process. But wait! This month Olivia welcomes a guest Leave of Absence expert to reveal how federal leave interacts with state leave (or not), including a quick glance at current and upcoming leave laws across the U.S.

## Plan Sponsors → Prepare Now for Updates to the *Notice of Privacy Practices*

The [recently finalized rule under HIPAA](#) provides enhanced privacy for reproductive healthcare. HIPAA subjects *Covered Entities* (group health plans; healthcare providers, & healthcare clearinghouses) to various rules to protect the privacy & security of Protected Health Information (PHI).

### **By December 23, 2024, group health plans subject to HIPAA must comply with the following prohibition and attestation requirement by December 23, 2024:**

The final rule “prohibits the use or disclosure of PHI for the purpose of investigating or imposing liability related to reproductive health care if the reproductive health care is either,

- (i) lawful in the state in which it was provided under the circumstances in which it was provided; or
- (ii) protected, required, or authorized by federal law.”

“This prohibition limits covered entities from using and disclosing PHI for the purpose of investigating or imposing liability related to reproductive health care that is legally provided under state or federal law, *but it does not limit the use or disclosure of PHI related to reproductive health care that was not legally provided under state or federal law.* Current HIPAA restrictions regarding use and disclosure of PHI continue to apply.”

The final rule also prohibits a group health plan (or its business associate) “from using or disclosing PHI potentially related to reproductive health care for health oversight activities, judicial, and administrative proceedings, law enforcement purposes, or to coroners and medical examiners, without obtaining a valid attestation that the use or disclosure is not for a prohibited purpose.” *Source: [Haynes Boone](#)*

### **All group health plans must update their plans’ Notice of Privacy Practices and redistribute the updated notice by February 16, 2026, to incorporate the following language:**

- ✓ notice requirements for covered entities creating or maintaining records protected under 42 CFR part 2 (related to substance use disorder patient records); and
- ✓ a description of the new prohibition on use or disclosure of certain protected health information (“**PHI**”) related to reproductive health care

# MORE Fiduciary Failure Lawsuits? Yep.

By Olivia Ash, Esq., MS, Benefits Compliance Counsel

The number of ERISA fiduciary lawsuits is stacking up. In addition to the high-profile *Lewandowski v. Johnson & Johnson, et. al.* case, another healthcare provider is under scrutiny. [Mayo Clinic](#) is fighting a class action allegation arguing the employee's health plan and TPA underpaid for services, passing on more than reasonable costs to plan participants.

Plans sponsors, AKA, employers who sponsor health plans, must avoid decisions described in the suit such as "deceptive, misleading, arbitrary, illusory, unpredictable, and inconsistent." On the contrary, employers must have the following words in mind respecting **all plan decisions**: *discretionary, prudent, loyal, follow, duty, best-interest, and reasonable.*

While we watch the various & sundry cases work their way (likely painfully) through the judicial system, let's recall [ERISA's five Fiduciary Duties](#) for Plan Sponsors:

1. Act solely in the interest of plan participants & their beneficiaries with the exclusive purpose of providing benefits to them;
2. Carry out duties prudently;
3. Follow the plan documents;
4. Hold plan assets in trust; and
5. Pay only reasonable plan expenses.

Become aware of decisions that fall into the fiduciary bucket & those that don't.

- ✓ **If you're a Patriot advisor**, click on the upper right image to access our 2-page handout: [Fiduciary Best Practices](#), & chat with clients.
- ✓ **If you're an employer** & want to know how the DOL defines an ERISA fiduciary, click the bottom right image to access their [guide for employers](#).



## FIDUCIARY BEST PRACTICES

KNOW 'EM. PRACTICE 'EM.

**What, or who, is a fiduciary?**

The word "fiduciary" is based on the Latin word meaning to *hold something in trust, confidence, or reliance*. A fiduciary is a trusted individual or entity, responsible for proper management of a plan, program, or funds. To understand this word in the context of benefit plans, we look to how ERISA<sup>1</sup> defines a fiduciary:

A person using discretion in administering & managing a plan or controlling the plan's assets is a fiduciary to the extent of that discretion or control. Fiduciary status is based on the functions performed for the plan, not just a person's title.

ERISA is the federal regulation that sets minimum standards for both retirement and health & welfare plans in private industry, with the goal of protecting individuals in those plans.

For health & welfare plans, ERISA fiduciaries include plan sponsors and plan administrators. Additionally, persons who act with discretionary decision making regarding the plan will likely be considered *functional fiduciaries*, even if unnamed in a plan document or designated as a plan fiduciary.

**What are ERISA's fiduciary duties?**

The 5 fiduciary responsibilities:

1. **Act** solely in the interest of plan participants & their beneficiaries with the exclusive purpose of providing benefits to them;
2. **Perform** duties prudently;
3. **Follow** the plan documents;
4. **Hold** plan assets in trust; and
5. **Pay** only reasonable plan expenses.

**What plan decisions are fiduciary in nature?**

- **Overseeing** the creation, distribution, & maintenance of plan documents, including updating participants on plan changes (e.g., drafting, amending, & updating forms; & distributing open enrollment materials).
- **Following** the written terms of the plan document(s), including contributions, rebating, & claims provisions.
- **Deciding** who & why a person was chosen to act on the plan's behalf.
- **Making** discretionary administrative & claims decisions (especially for self-funded plans who are often named plan administrators & handle protected participant information).
- **Selecting** plan providers & negotiating contracts.
- **Evaluating** performance of plan providers (e.g., TPAs, PBMs, COBRA administrators, & consultants).
- **Maintaining** the financial health of the plan, including diversifying plan assets.

## UNDERSTANDING YOUR FIDUCIARY RESPONSIBILITIES UNDER A GROUP HEALTH PLAN

