



Benefit Compliance from A to Z

Presented by
Ken Spencer, HR Service, Inc.



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QUESTIONS?

You may ask your question in the questions box at any time. Any questions that we do not answer during the webinar will be posted on the compliance corner webpage in the coming weeks.

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TODAY'S PRESENTER

Ken Spencer, MSHRM, SPHR



- President & CEO for HR Service, Inc.
 - **ERISA Solutions:** Web-based SPD Wraps, Automated EE Notices, 125 POPs, ACA Reporting, 5500 Reporting & Compliance Assessment/Dashboard
 - **HR Solutions:** HR Support, Help Desk, Handbooks, HR Audits, Training, Etc.
- 30 year's experience in benefit compliance, HR and employment law
- Taught benefits and HR for 8 years at Westminster and 1 year for U of Phoenix
- Masters in Human Resource Management
- SPHR certified

AGENDA

- Overview – Benefit Compliance Requirements
- ERISA, DOL, IRS and HHS Requirements
- Participant Notifications
- ACA, 5500, CMS and other reporting requirements
- Preparing for possible benefit compliance audits
- What compliance issues need attention every year
- Compliance checklist

Benefit Compliance – Fines & Fees

- \$152 / Day — Failure supply DOL (Plan Docs, SPDs, or SMM)
- \$2,140 /Day - Form 5500
- \$114 / Day — CHIP Notice
- \$500,000 Max — ERISA
- \$260 per return to max 3.193 Million/Year - ACA Reporting



Employee Benefit Requirements

Plan Administrators (Oversee and administer benefit program)

▪ **Fiduciary responsibilities**

- ✓ Look out for participant's rights
- ✓ Fair and financially sound
- ✓ Prudent and honest (no conflicts)
- ✓ Report and disclose
- ✓ Documentation

▪ **Fiduciary Bond**

- ✓ If funds could be lost
- ✓ Contact with cash, checks & deposits
- ✓ Power to transfer
- ✓ Not needed if paying direct to providers



Employee Benefit Requirements

Notification Requirements

- Summary of Benefits & Coverage (SBC)
- Summary of Material Modifications (SMM)
- Summary Plan Descriptions (SPD or SPD Wrap)



Summary Plan Descriptions

- Need SPD for each plan or SPD Wrap
- Wraps common approach on doc & one SPD
- More than what comes from insurance co.
- Distribute to all participants every 5 years
- Give current SPD or Wrap to new hires - 90 days
- Update annually for new participants



Employee Benefit Requirements

Notification Requirements Continued

- CHIP (Child Health Insurance Plan)
- MHPA (Mental Health Parity & Addition Equity Act) (50+ EEs)
- NMHPA (Newborns & Mothers Health Protection Act)
- WHCRA (Women's Health & Cancer Rights Act)
- Patient Protection
- HIPAA (Health Insurance Portability and Accountability Act)
- Wellness Program Disclosure (if applicable)
- Grandfather Plan (if applicable)
- GINA
- USERRA
- Special Enrollment Rights
- Health Exchange Notice (Give to all EEs)
- FMLA – posting & notice (If 50+ within 75 mile radius)
- Medicare Part D - Send by 10/15 and register with CMS
- COBRA – Initial and Qualifying Event



Document/Notice Delivery

- **Delivered in a fashion that recipient is likely to receive such as:**
 - ✓ **Mailed paper document** - sent via first class mail
 - ✓ **Hand delivery** – Obtain receipt
 - ✓ **Sent via email** to employees work email address
 - Obtain written consent if emailing to Personal email
 - ✓ **Posted to Login Site** – Must still send separate notification and offer other options



Translation Assistance

- Employers are required to provide translation assistance to participating employees upon request if:
- The plan covers fewer than 100 participants at the beginning of a plan year and has 25 percent or more of plan participants who are literate only in the same non-English language, or
- Your plan covers 100 or more participants at the beginning of the plan year and 10% or more of all plan participants, or
- 500 or more participants (whichever is less) are literate only in the same non-English language.



COBRA Requirements

- **General Cobra Notice**
 - GIVE TO ALL NEW PARTICIPANTS WITHIN 90 DAYS

- **Qualifying event notice**
 - OFFER SIMILAR BENEFITS
 - MEDICAL, DENTAL, FSA, & VISIONS
 - MAIL TO LAST KNOWN ADDRESS WITHIN 14 DAYS, ALLOW UP TO 60 DAYS TO ENROLL
 - ALLOW ON PLAN 18 MONTH, UNLESS DIVORCE, DISABILITY, DEATH, LOSS DEPENDENT STATUS OR MEDICARE (36 MONTHS)
 - PAYMENT – INCLUDE COST (FULL COST + 2%), DUE DATES AND CONSEQUENCES FOR NONPAYMENT. ALLOW 45 DAYS FOR FIRST PAYMENT. ALLOW 30 DAY GRACE PERIOD.



Reporting Requirements

- Form 5500
- SAR
- W-2 Reporting – Medical Premium Cost
- M1 Report (Multiple Employer Welfare Arrangement) Single plan covering employees of two or more unrelated employers
- ACA Reporting (1095-C / 1094-C)



2018 ACA Reporting

Who Reports

- ALE (50 or more FT or FTE during previous year)
- All Self-funded plans regardless of size

Which Forms

Employees

- ALE: Form 1095-C
- Self-Funded with less than 50 EEs: Form 1095-B

IRS

- ALE: Form 1094-C with copies of 1095-C
- Self-Funded with less than 50 EEs: Form 1094-B with copies of 1095-B
- If 250+ forms must use E-file

Due Dates

- 1095 forms due/postmarked to employees by **March 2nd**
- IRS submittal of 1094/1095 forms postmarked by **February 28th** if mailing or by **March 31st** if using E-file system



Non-Discrimination Testing

- **125 Premium Only Plans (POP)**
- **Flexible Spending Accounts (FSA)**
- **Dependent Care (DCAP)**
- **Self-Funded Non-discrimination Testing**
- **Full-Insured Plans – Not yet defined**
- **401(k) Retirement Plans**

Perform non-discrimination tests the last day of the plan year.
Recommended to do mid-year test to make adjustments.



What to do Annually?

SBCs

Employee Notices:

COBRA, CHIP, MHPA, NMHPA, WHCRA, Patient Protection, HIPAA, Wellness, Medicare Part D, & Health Exchange

Summary Plan Descriptions (SPD) or Wrap – New Participants

Summary of Material Modifications (SMM)

Reports

- W-2 Health Cost Reporting – 250+
- ACA Reporting
- 5500 Reporting
- SAR

Non-Discrimination Testing – POP/FSA, Self-funded Plans and 401(k)



Making Compliance Easier?

Education, Awareness & Update Notifications

Checklists & Steps

Sample Checklist – Compliance Assessment Tool

Automated web-based solutions or ERISA Attorney



Are your Employers Audit Ready?

- Determine employer's requirements & follow the law
- Assess where they are now and their audit risks
- Create required documents (SPD Wraps, POPs, FSA, EE Notices, etc.)
- Provide participants with notification requirements
- Keep record of who? was sent what? When?
- Meet reporting requirements, if applicable (5500, ACA, etc.)
- Keep documents up-to-date and address changes – SMM
- Establish a record keeping system (contributions, benefit payments, participant info., and reporting documents).



RESOURCES

Contact HR Service, Inc.

- Annual Benefit Compliance Actions Article
- Free NAHU member access to Compliance Assessment Tool (Automated Compliance Checklist)

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