Group Health Plans in 2026 and the Interplay between Health and Retirement Plans

Webinar organized by Laura Mongon, QPFC®, Retirement Specialist with Summit Financial Group, Northwestern Mutual Private Client Group, featuring Patricia Beaty and Evan Deig, attorneys with Taft Stettinius & Hollister LLP.

- **ERISA Fiduciary Status**. Fiduciary status under ERISA is determined by function, not title. Understanding who qualifies as a fiduciary, and when fiduciary status arises, is key to evaluating risk and compliance in both health and welfare and retirement plans.
- **Prohibited Transactions After Cunningham v. Cornell**. ERISA permits service provider arrangements *only if* the services being provided are reasonable, necessary, and compensated at no more than reasonable rates. Cunningham shifted the burden to plan sponsors to prove these elements are satisfied after being sued, which increases litigation exposure. In comparing/benchmarking fees you need to compare the services being provided to make a valid comparison.
- **Financial Domination Theory**. A developing ERISA fiduciary theory alleges that employers may breach fiduciary duties by offering a PPO alongside an HDHP with an HSA where the PPO is financially dominated, meaning the HDHP always costs less in every scenario, while plan communications are alleged to have steered participants toward the higher-cost PPO option. The case is ongoing and should be monitored by employers. Be careful how you communicate benefit offerings.
- **HSAs**. HSAs are valuable retirement readiness tools because of their triple tax advantages: tax-free contributions, tax-free investment growth, and tax-free qualified distributions. They are a health and welfare benefit, but HSAs also serve as effective long-term retirement savings vehicles.
- **PBMs**. PBM practices are rapidly changing as new laws and regulations reshape the PBM/group health plan landscape. The Consolidated Appropriations Act of 2026 and the Department of Labor's proposed PBM fee disclosure rule are closely connected efforts regulate PBM's business practices and arrangements with employers. Employers should understand these developments to better navigate their relationships and associated obligations with respect to PBMs.
- **GLP-1s**. High-cost but popular GLP-1 medications significantly impact health plan costs. Direct-to-consumer drug programs may offer a cost-reduction opportunity, but employers must carefully evaluate plan design and operation. Should also review your PBM service agreement to ensure direct-to-consumer permitted and if it is not, renegotiate your agreement.
- **Voluntary Benefits**. Voluntary benefits are optional, employee paid benefits like accident insurance and hospital indemnity coverage typically not subject to ERISA. ERISA exposure can arise through employer endorsement, whether direct or indirect, among other compliance requirements. Voluntary means very limited employer involvement such as communicating the benefit's availability, no employer contributions, collecting premiums through payroll deduction and sending premiums to the insurer and that is it.

- **Mental Health Parity**. Employer-sponsored health plans that offer mental health or substance use disorder benefits to provide those benefits on terms equal to medical and surgical care. Although recent rulemaking activity has been paused, the Department of Labor continues to prioritize mental health parity enforcement, making it an ongoing compliance focus. Make sure your third-party administrator service agreement requires that the service provider provide you with all information necessary to perform the NQTL comparability analysis.

- **Medicare Secondary Payer Rules**. Active employees who are eligible for or on Medicare can't be encouraged or incentivized to drop the employer group health coverage. Group health plan must pay primary and Medicare secondary. Medicare pays primary for retired employees who are covered by retiree group health coverage. Keep in mind when designing incentives to move employees off the group health plan and when structuring retiree medical plans. Improper incentives or communications can put an employer at risk of noncompliance.

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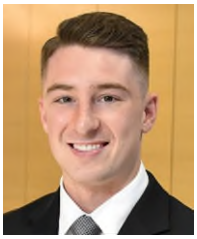

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