Employee Benefits in 2025
WHAT LIES AHEAD

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AGENDA

IRS

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CONTENT DISCLAIMER

The information presented is general in nature and is intended to present an illustrate overview on employee benefit topics. The written and verbal contents of the presentation do not constitute legal or tax advice. No client relationship is established between and the presenters.

IRS

The 4980H(a) and (b) penalty figures for 2025 have been announced, and for the first time since the law's enactment, these amounts will decrease from 2024:

- 4980H(a): If Employer does not offer coverage to 95% of its full time employees the Employer is subject to a penalty equal to $2,900 x every full time employee (minus 30).
- 4980H(b): If employer offers coverage that is unaffordable or doesn't offer minimum value, the employer is subject to a penalty equal to $4,350 x the number of full time employees that receive a subsidy to purchase insurance on the Health Exchange.

MEDICARE

Following the passage of the 2022 Inflation Reduction Act, the Centers for Medicare & Medicaid Services (CMS) issued a final rule in the spring of 2024 that revises the Medicare Advantage Program, Medicare Prescription Drug Benefit Program (Medicare Part D), and the Medicare Cost Plan Program.

- Improved access to behavioral healthcare services for Medicare Advantage plan enrollees
- Payment installment plans for prescriptions
- $2,000 annual cap on out-of-pocket prescription drug spending
    - Future impact to the program

ACA SECTION 1557

The ACA's Section 1557 prohibits discrimination "under, any health program or activity, any part of which is receiving Federal financial assistance," on the basis of "race, national origin, sex, religion, or color".

The final rule implementing this section of the law was published on May 6, and has implications for certain employers as health plan sponsors.

Many employers will be able to rely on their fully insured carriers to comply with this law. However self-insured employer plans that receive federal funding will need to take notice.

Though there is no federal law requiring coverage for gender affirming care, courts have held that exclusion of gender affirming care violates Title VII.

SCOTUS

FDA v. Alliance for Hippocratic Medicine

On June13 the Court unanimously upheld the current protocol for administering a specific drug used for abortion which the plaintiffs argued made the drug accessible to a wide reach of individuals.

Note that the Court here found lack of standing to challenge the FDA, they did not rule on the substantive issue

This arguably leaves this as a potential future challenge by a different party

Loper Bright Enterprises et al v Raimondo Secretary of Commerce

On June 28th, in a much anticipated opinion, the Court held by a 6-3 vote to overturn the long standing precedent known as ‘Chevron deference’.

Since 1984, Federal Agencies (such as the IRS and the EEOC) have been giving ‘deference’ in their interpretation, implementation and oversight of laws.

The Courts have given “respect” to the way an agency decides laws under their purview should be followed, (and what the laws mean).

Going forward, the Court will “resolve cases and controversies without any systemic bias in the government’s favor.”

WHAT NOW?

Agency interpretations of many laws impacting employer health plans could be open to challenge

Texas District Court has blocked enforcement of the final rules implementing Section 1557 and the nondiscrimination requirements in healthcare, citing the recent decision in Loper

Mississippi federal court postponed the effective date of HHS new Discrimination rules under 1557 and prohibited HHS from enforcement on a national basis

Looking Ahead

The biggest question will be how current federal regulatory guidance will be impacted.

The EEOC, DOL and IRS have numerous FAQs and interpretations that 'fill gaps' in existing law, many of which employers rely on in their administration of health and welfare plans.

Employers should watch for changes in the creditable status of health plans, which may require new mid-year Disclosure of Creditable status change

Section 1557 (first federal protection for gender identity in health plans) is in jeopardy

References

Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000d-1 et seq.

Kadel v. Folwell, 2024 WL 1846802 (4th Cir. 2024)

IRS Rev. Proc. 2024-24

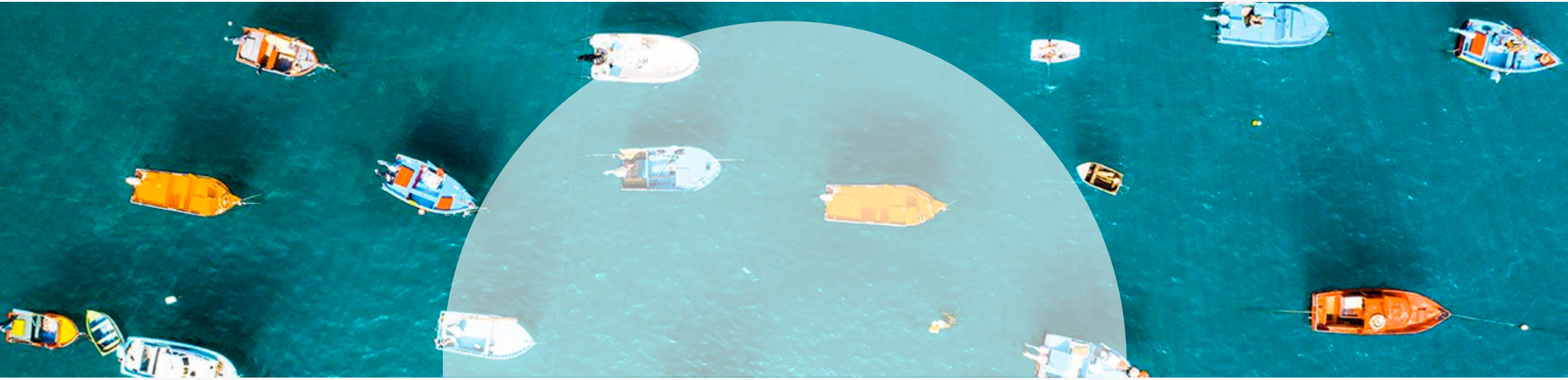
CMS Fact Sheet

FDA v Alliance for Hippocratic Medicine

Loper Bright Enterprises v Raimondo Secretary of Comm

Texas v Becerra, No. 2:24-CV-211 (E.D. Tex. July 3, 2024)

Tennessee v Becerra, No. 2:24-CV-161 (S.D. Miss July 3, 2024

DISCUSSION AND QUESTIONS

THANK YOU!