



Because You're Different

COFFEE & COMPLIANCE

SUMMER CATCH-UP



#YAYCOMPLIANCE

WITH HOSTS CHRISTINA AND JENNIE

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SUMMER CATCH-UP OVERVIEW

- 1 PBM REFORM
- 2 FERTILITY AS EXCEPTED BENEFIT
- 3 FIDUCIARY LITIGATION
- 4 EMPLOYER BEST PRACTICES

HOW PBM REFORM AFFECT CLIENTS

Consolidated appropriations act Signed on **February 3, 2026**

Many provisions don't go into effect until 2028 or 2029

What can we do right now?

- Marketing efforts
- Educate ourselves

Some carriers taking proactive approaches on rebates



FERTILITY BENEFITS

Executive Order 14216 'Expanding Access to In Vitro Fertilization'

Excepted Benefits

- Generally, exempt from ERISA, ACA, HIPAA
- No 'medical care' provided

May 10, 2026 Proposed Rule will **permit fertility benefits as excepted benefits**; certain requirements

Once finalized, new rule applies to plans **beginning on or after January 1, 2027**



FIDUCIARY LITIGATION

HOW DID WE GET HERE?

- Employers as plan sponsors are fiduciaries of their health plans
- Duty to manage the plan in best interest of the participants

WHAT ARE THE PLAINTIFFS CLAIMS?

- Selection of service providers, plan designs, improper pharmacy benefit cause participants to pay more than they should

WHAT ARE THE DEFENSE ARGUMENTS?

- Selection of providers and plan design are 'settlor', not fiduciary functions

This presentation is for general informational and discussion purposes only and does not constitute legal or tax advice.

FIDUCIARY LITIGATION

WHERE DO THESE CASES STAND NOW?

- Many dismissed on lack of standing (J&J in 2024 and again in 2026; Navarro et al. v. Wells Fargo in 2026)

WHERE ARE THESE CASES GOING?

- Stern v JP Morgan gets green light on Article III standing (March 2026)
- Barbich v. Northwestern University- plaintiffs have constitutional standing to sue based on "financial injury" for employer medical plan design/offering (April 2026)



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EMPLOYER BEST PRACTICES

1

FIDUCIARY COMMITTEE

2

408(B)(2) REVIEW

3

MARKETING/RFP

4

SERVICE PROVIDER SELECTION



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YOUR TURN!

QUESTIONS & ANSWERS



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THANK YOU!

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