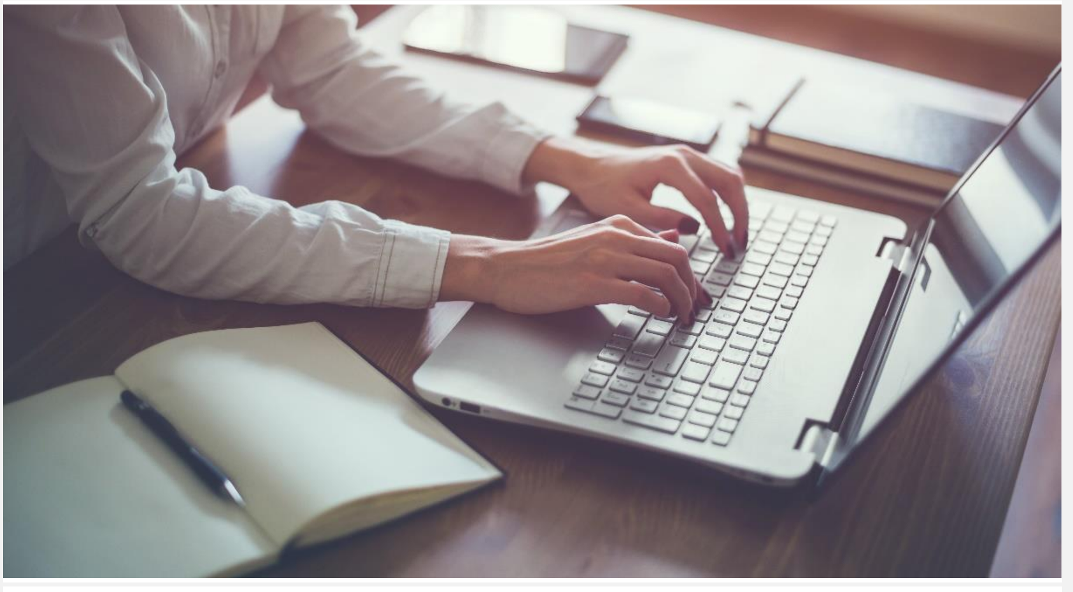
United States | Human Capital | 19 December 2025

Rewards Policy Insider 2025-26



In this Issue:

Upcoming Compliance Reminders for Calendar Year Employee Benefit Plans

December 2025

31st: Gag Clause Prohibition Compliance Attestation Due

March 2026

2nd: Form 1095-C must be made available for employees

31st: Forms 1094-C and 1095-C due to IRS

Note: This is meant to be a reminder of certain upcoming compliance deadlines for employee benefit plans operating on a calendar year basis. It is not an exhaustive list of compliance obligations. Specific plans may be subject to different obligations and deadlines depending upon a variety of factors, including the plan type, plan year, and whether or not the plan is subject to ERISA, among other things.

District Court Once Again Dismisses PBM-Related Fiduciary Breach Claims Against Group Health Plan Sponsor

For the second time in 2025, a federal district court has agreed to dismiss certain ERISA fiduciary breach claims relating to a group health plan's use of a pharmacy benefit manager ("PBM") to manage its prescription drug benefit.

The case is one of three high-profile class action lawsuits pending against group health plan sponsors based on the details of their prescription drug benefits as designed and administered by PBMs. Because a significant majority of large group health plans use PBMs, these cases are being closely watched by employers, PBMs, the plaintiffs' bar, and other stakeholders. State and federal policymakers – who are focused on regulating PBMs – are interested, too.

This latest ruling in the case was based on a second amended complaint filed by the plaintiffs after the fiduciary breach claims in their initial complaint were dismissed for lack of standing in January of this year. A Minnesota district court reached the same conclusion in a similar case in March. There have not been any rulings yet in the third case, which is currently pending in the Southern District of New York.

Case Background

Although the details vary, the complaints in each case generally include selective comparisons between how much plans are required to pay for certain generic and brand name drugs versus the price available to those who purchase direct from a pharmacy without insurance. The large discrepancies are the basis for the plaintiffs' claims that engaging the PBM is a breach of ERISA's fiduciary duties of prudence and loyalty, and constitutes a prohibited transaction, among other things.

To date, the courts in these cases have not addressed the merits of the fiduciary breach claims because the plaintiffs have not been able to overcome challenges to their "standing" to bring suit. As the district court noted in the most recent case, to establish standing a plaintiff must show: (1) that he or she suffered an injury in fact; (2) that the injury was likely caused by the defendant; and (3) that the injury would likely be redressed by judicial relief.

In general, the plaintiffs in all three cases argue that the alleged fiduciary breaches have caused them injury in the form of higher premium contributions and out-of-pocket costs for prescription drugs. While these types of economic harms potentially can meet the injury in fact requirement, the injury must be more than hypothetical or speculative. That is where the plaintiffs have run into problems in both cases that have considered the issue thus far.

As the New Jersey District Court explained in its most recent ruling:

> Participant contribution amounts may be affected by several factors having nothing to do with prescription drug benefits, such as: group health plan market trends; administrative expenses; non-drug medical costs; the costs of other prescription drugs and categories of drugs; historical cost-sharing levels under the Plan; and other internal or external factors impacting employees.
> ...
>
> Put simply, it is too speculative that the allegedly excessive fees the Plan paid to its PBM "had any effect at all" on Plaintiffs' contribution rates and out-of-pocket costs for prescriptions.

Outlook

While this latest ruling is an encouraging sign for plan sponsors, it is by no means the end of the threat posed by this line of cases. The plaintiffs' amended claims were again dismissed "without prejudice," meaning they have another opportunity to amend their complaint.

Similarly, the plaintiffs in the second case filed an amended complaint in May. The defendants have moved to dismiss those claims as well, and the district court is expected to rule on that motion in the near future.

The initial complaint in the third case was filed in March of 2025. The defendants filed a motion to dismiss in June, and a ruling on that motion should be forthcoming.

IRS Releases Preliminary Guidance on Trump Accounts

The Internal Revenue Service ("IRS") recently released preliminary guidance on "Trump accounts," the new tax-deferred child savings accounts created by the One Big Beautiful Bill Act ("OBBBA").

Background

The OBBBA created a new type of starter IRA called a "Trump account," which is intended to encourage individuals to start saving at a young age. Trump accounts may be established only for "eligible individuals," meaning individuals (1) under age 18; (2) who have a Social Security Number; and (3) for whom the Treasury Department certifies that the individual meets the first two requirements or someone else (such as a parent) elects to establish an account for the child.

For certain children born after 2024 and before 2029, the federal government will make a one-time "seed" contribution of $1,000 to a Trump account for the child. No distributions may be taken from a Trump account before the child is age 18.

Currently, Trump accounts are still in the development stage. However, the accounts are expected to begin accepting contributions in July 2026.

IRS Releases Preliminary Guidance

On December 2, 2025, as part of an event centered around Trump accounts, President Trump touted a recent announcement from the CEO of a large corporation that he will contribute $6.25 billion to fund Trump accounts. That same day, the IRS released Notice 2025-68, which provides preliminary guidance on Trump accounts.

Highlights of the lengthy guidance include:

- ***Salary deferrals to Trump accounts*.** One of the most notable pieces of guidance in the Notice relates to the OBBBA's rule that an employer may contribute up to $2,500 to an employee's Trump account or the account of an employee's dependent.

  The Notice states that employer contributions could be offered via salary reduction under a section 125 cafeteria plan, as long as the contributions are being made to a Trump account of the employee's dependent (not an employee's own Trump account). In effect, this appears to mean that an employee could contribute to a dependent's Trump account up to the dollar limit, and this amount would be excluded from the employee's income for tax purposes. The IRS indicates that future guidance will address this in greater detail.

- ***Employer contribution limit.*** The Notice confirms that the employer contribution limit of $2,500 is an annual limit. In addition, the Notice confirms that the $2,500 limit is per employee, meaning that if an employee has two or more children, the $2,500 limit would apply in the aggregate to those children.

- ***Setting up an account.*** The guidance confirms that a Trump account must initially be created by the Treasury Department. The Notice also explains that an "authorized individual" (i.e., a legal guardian, parent, adult sibling, or grandparent of the eligible child, in that order of priority) will establish a Trump account by making an election either on a new IRS form or online. After the election is made, the individual who made the election will receive information on how to activate the account.

- *Rollover rules upon reaching age 18.* The Notice confirms that after a child reaches age 18, a Trump account may be rolled over to an IRA. If certain requirements are met, a Trump account could also be rolled over to an employer plan such as a 401(k), 403(b), or governmental 457(b) plan.

Settlement in Worker-Led Lawsuit Against Employer Provides Reminder of COBRA Notice Requirements

A lawsuit alleging that an employer failed to provide sufficient and timely COBRA election notices to employees recently settled for $1 million. This case serves as an important compliance reminder to group health plan sponsors regarding their obligations with respect to COBRA notices.

What are the COBRA Notice Requirements?

Under the federal law known as COBRA, an individual who is covered by a group health plan on the day before a "qualifying event" occurs – such as being terminated from employment or having their hours reduced to the extent that it causes them to lose plan coverage – is able to elect to continue their health plan coverage. The COBRA continuation coverage requirement generally applies to group health plans maintained by employers that had at least 20 employees on more than 50% of their typical business days in the prior year.

COBRA continuation coverage applies to "qualified beneficiaries," which includes employees who are covered by the plan as well as that employee's spouse, former spouse, or dependent child.

Sponsors of group health plans must provide covered employees and their beneficiaries with notices explaining their rights under COBRA. COBRA includes multiple notice requirements, including:

- *Summary plan description*. The plan's summary plan description must include an explanation of COBRA rights.
- *COBRA general notice*. Plans must give employees a general notice describing their COBRA rights within the first 90 days of coverage.
- *COBRA election notice*. After the plan receives notice that a qualified beneficiary has experienced a qualifying event, the plan must provide the affected qualified beneficiaries with an election notice within 14 days. This notice describes their rights to continuation coverage and how to make an election to continue coverage. Department of Labor ("DOL") regulations provide the requirements as to the specific content for election notices. A penalty of up to $110 per qualified beneficiary per day may be imposed for failing to provide timely and compliant COBRA election notices.

Lawsuit Ends in $1 Million Settlement

In 2024, a group of employees brought a class action lawsuit against an employer in a Michigan district court alleging that the employer failed to comply with the requirements for COBRA election notices. First, the employees claimed that the employer failed to timely provide employees with COBRA election notices after a qualifying event, not delivering the notices until several months later. Second, they alleged that when the employer did eventually send the COBRA election notice, it failed to include all of the legally required information, including a description of the amount each qualified beneficiary was required to pay for continuation coverage. The employees claimed that this failure led to the loss of insurance coverage and caused them to incur expensive medical bills as a result.

Following negotiations earlier this year, in December 2025, the district court judge approved a settlement between the parties. As part of the settlement, the employer will pay $1 million.

Takeaways

This lawsuit is just one of dozens that have been filed in the past few years alleging COBRA election notice failures, many of which have also resulted in six- or seven-figure settlements. This most recent settlement serves as an important reminder to sponsors of group health plans to closely adhere to the COBRA notice requirements – especially the requirements for the election notice, which was the focus of this lawsuit.

Numerous resources are available to assist health plan sponsors in preparing COBRA notices and providing continuation coverage. For example, DOL publishes an employer guide, available here. DOL also provides a model general notice and a model election notice, available here, which employers are permitted but not required to use.

Visit the Archive

All previous issues of the Rewards Policy Insider are archived on Deloitte.com and can be accessed here.

Don't forget to bookmark the page for quick and easy reference!

Upcoming editions will continue to be sent via email and will be added to the site on a regular basis.