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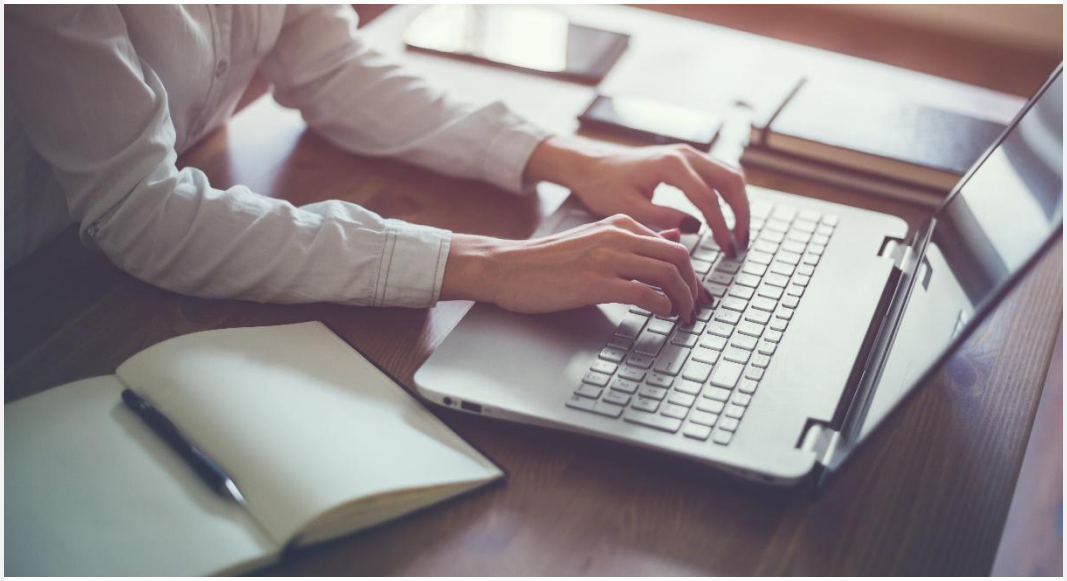

In this Issue:

Upcoming Compliance Reminders for Calendar Year Employee Benefit Plans

July 2026

27th: SMM (or updated SPD) for 2025 amendments
31st: Form 5500 Due (without extension)
31st: PCORI Fee Due

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.

Department of Labor Announces Temporary Non-Enforcement Policy for SECURE 2.0 Paper Benefit Statement Requirements

The Department of Labor ("DOL") announced that it will temporarily not enforce the new requirements for retirement plans to provide certain notices and benefit statements on paper. The new rules were enacted as part of the SECURE 2.0 Act of 2022 ("SECURE 2.0").

Background

In general, ERISA retirement plan administrators are required to provide disclosures to participants and beneficiaries that include information about their accounts and benefits. In 2002 and 2020, DOL updated its disclosure regulations to establish safe harbors permitting ERISA plans to use electronic delivery ("e-delivery") to provide these disclosures in certain circumstances.

Section 338 of SECURE 2.0 made certain changes to the e-delivery rules. Relevant here is the new requirement for plan administrators to deliver benefit statements on paper, unless an exception applies. In the case of defined contribution plans, such statements must be furnished on paper at least once in a calendar year (and for defined benefit plans, once every three years) unless a participant has affirmatively elected to receive all plan disclosures electronically. SECURE 2.0 also directed DOL to update the 2002 and 2020 safe harbors accordingly.

In February 2026, DOL released proposed regulations to implement the changes enacted by section 338 of SECURE 2.0. (See Rewards Policy Insider 2026-06 for more information on the proposed regulations.) Following the release of the proposed regulations, there were questions about whether plans needed to comply with the proposed rules immediately.

DOL Announces Temporary Non-Enforcement Policy on Paper Statement Requirements

In May, DOL issued Field Assistance Bulletin ("FAB") 2026-02, which announced a temporary non-enforcement policy regarding the paper statement requirements of SECURE 2.0.

The FAB did two things:

- It reiterated the non-enforcement policy that DOL described in the proposed regulations released in February – i.e., that DOL will not take enforcement action against plan administrators that comply in good faith with a reasonable interpretation of the rules described in the proposed regulations. This relief applies to the proposed changes to the 2002 and 2020 safe harbors.

- It also newly announced that DOL will not take enforcement action against plan administrators that comply in good faith with a reasonable interpretation of the annual paper benefit statement requirement pending DOL's future finalization of the proposed regulations. This will be welcome news to many plans and administrators because, according to the statute, this requirement was effective for plan years beginning in 2026.

Agencies Propose Rules for Treating Fertility Benefits as Excepted Benefits

The Departments of Health and Human Services, Labor, and Treasury (Agencies) on May 13, 2026 jointly issued proposed regulations that would clarify how employers and insurers could offer standalone fertility benefits as "Excepted Benefits" that are exempt from the Affordable Care Act's group health plan mandates and certain other federal requirements. The goal of the proposed regulations is to provide clarity for employers that want to offer standalone fertility benefits to employees regardless of whether they are enrolled in the employer's group health plan.

What are Excepted Benefits?

In general, Excepted Benefits are certain health-related benefits that are exempt from some otherwise applicable federal requirements for health insurance and group health plans, including the ACA's group health mandates.

There are four categories of Excepted Benefits: (i) benefits that are excepted in all circumstances (e.g., workers compensation insurance); (ii) limited excepted benefits (e.g., limited scope dental or vision); (iii) independent, noncoordinated excepted benefits (e.g., hospital indemnity and critical illness policies); and (iv) supplemental excepted benefits (e.g., Medigap).

Fertility Benefits as Excepted Benefits

Last fall, consistent with an earlier Executive Order on "Expanding Access to In Vitro Fertilization," the Agencies issued a set of FAQs addressing how standalone fertility benefits could qualify as either independent, non-coordinated Excepted Benefits or limited Excepted Benefits. Those FAQs also announced the Agencies' plans to issue these proposed regulations.

Unlike the FAQs, which mostly confirmed that fertility benefits could be Excepted Benefits, the proposed regulations would establish specific criteria for either fully insured or self-insured fertility benefits to qualify as limited Excepted Benefits. These include:

- Benefits Covered. Substantially all benefits would have to be for the diagnosis, mitigation, or treatment of infertility or infertility-related reproductive health conditions. Additionally, substantially all covered services would have to be provided by licensed medical professionals.
- Lifetime Dollar Limit. The total lifetime benefit per participant (plus their beneficiaries, if eligible) could not exceed $120,000, adjusted annually for inflation.
- Notice. Not later than the first day a participant is eligible to enroll in the fertility benefit, the plan (or issuer) would have to provide a written notice that includes a description of the coverage. The description would have to include a summary of benefits and limitations (including the mandatory lifetime benefit limit), how to identify and use a network provider (if applicable), how to file a claim for benefits, and whether the fertility benefit has the same claims procedures as for the sponsor's other group health plans. (Note that, in the case of an ERISA plan, the fertility benefit would need to satisfy ERISA's claims procedure rules regardless of whether it is an Excepted Benefit.) This notice would also have to be provided on an annual basis thereafter, and upon a participant's request.

In the case of self-insured fertility benefits, the fertility benefits also could not otherwise be "an integral part of" the employer's other group health plan. In order to not be an "integral part," the employer would also need to offer a group health plan that: (i) is not limited to Excepted Benefits; (ii) is not an HRA or other account-based group health plan; (iii) is offered to the same employees who are eligible for the fertility benefit; and (iv) those who enroll in the fertility benefit are allowed to opt-out of the group health plan (even if they are not required to make a contribution to participate).

Fully insured fertility benefits would only need to be maintained pursuant to a separate insurance policy or contract, and meet the criteria outlined above, to be Excepted Benefits under the proposed regulations.

Comments and Proposed Effective Date

Comments on the proposed rule can be submitted electronically, or by mail to the Department of Labor's Employee Benefits Security Administration. The

deadline is July 13, 2026. If adopted, the proposed effective date is for plan years beginning on or after January 1, 2027.

IRS Issues Guidance on Qualified Long-Term Care Insurance Distributions from Retirement Plans

The Internal Revenue Service ("IRS") has issued guidance on section 334 of the SECURE 2.0 Act of 2022 ("SECURE 2.0"), which permits distributions from retirement plans in order to pay premiums for long-term care ("LTC") insurance for the plan participant or the participant's spouse.

Background

In-service distributions from an employer-sponsored plan are generally not permitted under the Internal Revenue Code ("Code"), unless an exception applies. Section 334 of SECURE 2.0 created an exception to this rule for the payment of "certified" LTC insurance premiums and charges. For this purpose, certified LTC insurance includes a qualified LTC insurance contract, among other things. LTC insurance is typically purchased to help pay for services such as assisted living or home health aides. The provision also imposes new reporting requirements on the issuers of certified LTC insurance.

Guidance Addresses Rules for Qualified Long-Term Care Insurance Distributions

In Notice 2026-33, the IRS provides guidance on section 334 of SECURE 2.0. The Notice provides two main categories of guidance: (1) guidance addressing the reporting requirements for issuers of certified LTC insurance; and (2) guidance to plan administrators making, and individuals receiving, LTC distributions.

Highlights of the guidance for retirement plans include:

- Offering LTC distributions is optional. The Notice confirms that offering this form of distribution to participants is optional for plans.

- Certain notice/withholding requirements do not apply. The Notice confirms that a qualified LTC distribution is not subject to the section 402(f) notice requirement or the mandatory 20% withholding requirement that apply to eligible rollover distributions. However, a qualified LTC distribution is subject to the withholding requirements that apply to nonperiodic distributions.

- Reporting. The Notice confirms that LTC insurance distributions are reported on IRS Form 1099-R.

- Need for premium statement and reliance. The Notice confirms that no distribution will be treated as a qualified LTC distribution unless an LTC premium statement with respect to the employee has been filed with the plan. In addition, the Notice states that a plan administrator may rely on certain representations made by the issuer of LTC insurance, including that the insurance coverage meets the definition of certified LTC insurance.

- Plan amendment deadline. Under prior IRS guidance, the deadline for a plan to be amended to incorporate the provisions of SECURE 2.0 has been generally extended until December 31, 2026. The Notice generally further extends the deadline for a defined contribution plan sponsor to amend its plan to permit qualified LTC insurance distributions to December 31, 2027.

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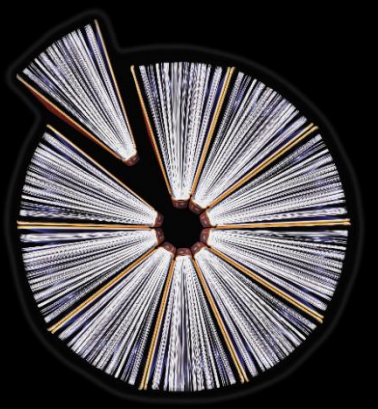

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