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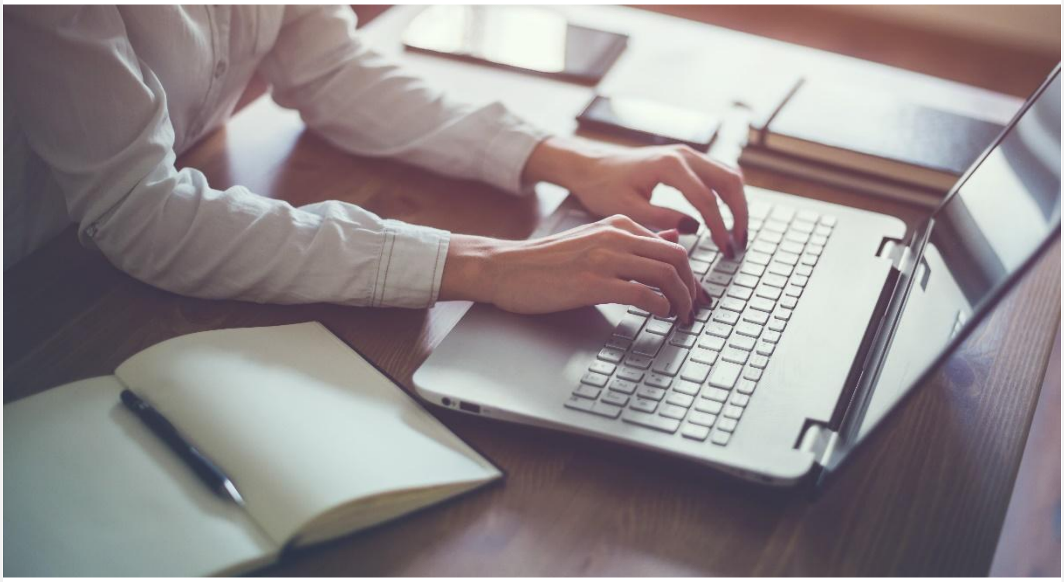

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Upcoming Compliance Reminders for Calendar Year Employee Benefit Plans

July 2026

27th: Summary of Material Modification (SMM) (or updated Summary Plan Description (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 Provides Guidance on ERISA's Application to Trump Accounts

Ahead of the expected July 4th launch date of Trump accounts, the Department of Labor ("DOL") released new guidance addressing whether ERISA applies to such accounts in a variety of circumstances, including when an employer contributes to the Trump account of an employee's child or to the employee's own account.

Background

Created by the One, Big, Beautiful Bill Act, a "Trump account" is a starter IRA for children. Trump accounts may be established 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).

Under the statute, an employer may contribute up to $2,500 on an annual basis to an employee's Trump account or that of an employee's dependent. The IRS has also explained in prior guidance (Notice 2025-68) that employer contributions could be offered via salary reduction under a section 125 cafeteria plan, provided that the contributions are made to a Trump account of the employee's dependent (not an employee's own Trump account).

Trump accounts are expected to officially start accepting contributions on July 4, 2026.

DOL Guidance Addresses ERISA Coverage and Trump Accounts

On June 17, 2026, DOL issued Technical Release 2026-02, which clarifies whether ERISA is applicable to Trump accounts in certain circumstances. Specifically, the Technical Release provides guidance on when an employer has or has not created an ERISA plan by providing employer contributions to Trump accounts or by facilitating pre-tax or after-tax employee contributions.

The key takeaways from the guidance are:

- ***Contributions to children/dependents of employees.*** The Technical Release provides that where contributions to Trump accounts are being made solely to the children or other dependents of employees, no ERISA plan is created. This applies to regular employer contributions and those facilitated through pre-tax employee contributions to a cafeteria plan.
- ***Employer contributions to employees.*** The Technical Release addresses the possibility that employers could make Trump account contributions to the Trump accounts of employees themselves, such as if the employee is under age 18. DOL concludes that employer contributions to Trump accounts during the "growth period" (i.e., the period that ends before January 1st of the year in which the child reaches age 18) would not create an ERISA plan where participation is completely voluntary for employees, and the employer does not: (1) impose conditions on utilization of Trump account funds beyond those permitted by the statute; (2) make or influence the investment decisions with respect to Trump account funds; (3) represent that Trump accounts are an employee pension benefit plan or an employee welfare benefit plan established or maintained by the employer; or (4) receive any payment or compensation in connection with a Trump account.
- ***After-tax contributions by employees to their own Trump account.*** The Technical Release addresses a circumstance in which the employer allows the employee to make after-tax contributions to the employee's Trump account, including after the "growth period" (defined above) ends. Under the statute, at the end of the growth period, a Trump account generally applies the rules of traditional IRAs, but does not automatically become a traditional IRA. DOL concludes that the existing IRA safe harbor rule for voluntary IRA savings arrangements (found in 29 C.F.R. § 2510.3-2(d)) would be available. Under the safe harbor, an IRA is not considered a "pension plan" as defined in ERISA as long as four conditions are met, including that employee participation is voluntary, and the employer does not endorse the program. As discussed in the next article, the guidance also advises employers on how they can avoid endorsing the Trump account program for purposes of the safe harbor.

2026 Regulatory Agenda Released

On July 3, 2026, the Administration published its 2026 Unified Agenda of Regulatory and Deregulatory Actions

(Agenda). The Agenda previews federal regulatory activities that are expected to be proposed or finalized in the immediate future. Even though deadlines are often missed and targeted dates are often pushed back, the Agenda is a helpful guide to regulators' current priorities.

Below is a summary of certain key employee benefits-related projects from the Department of Labor (DOL) and the Internal Revenue Service (IRS).

Department of Labor

It is not uncommon for certain projects to appear in many iterations of the Agenda before proposed or final regulations are published, so projects appearing for the first time are always of interest. Here are some of the relevant first-timers on the DOL Agenda:

- Fiduciary Duties in Selecting Designated Investment Alternatives. Proposed regulations, which are intended to implement President Trump's Executive Order 14330 (*Democratizing Access to Alternative Assets for 401(k) Investors*), were published in March 2026. The Agenda states that DOL is scheduled to "analyze comments" on the proposal in August 2026.
- Health/Welfare Projects. The Agenda includes multiple new projects related to health and welfare plans. The two listed here are joint projects with IRS and the Department of Health and Human Services (HHS):
    - *Requirements related to the Mental Health Parity and Addiction Equity Act.* The Agenda targets December 2026 for a notice of proposed rulemaking to propose requirements under the Mental Health Parity and Addiction Equity Act (MHPAEA) "to clarify plans' and issuers' obligations, promote compliance, and reduce burden."
    - *Individual coverage HRAs.* The Agenda adds a notice of proposed rulemaking – targeted for July 2026 – to amend the existing regulations related to health reimbursement arrangements (HRAs) to clarify and streamline administrative requirements in order to expand the ability of employers to offer health coverage through individual coverage HRAs (ICHRAs).

Items carrying over from one or more prior agendas include the following:

- ESG Rule—Prudence/Loyalty & Shareholder Rights. The Agenda continues to include a project to address the extent to which fiduciaries may consider environmental, social, and governance (ESG) factors. The Agenda targets July 2026 for a rulemaking, and DOL may meet this goal – a proposed rule was sent to the Office of Management and Budget (OMB) for review on June 30, 2026.
- Guidance Projects Pertaining to SECURE 2.0:
    - *Pooled employer plans.* DOL issued an RFI on pooled employer plans (PEPs) in July 2025, which solicited information about PEP market practices and indicated that DOL is considering developing a regulatory safe harbor to encourage offering and joining PEPs. According to the Agenda, DOL is projected to analyze comments on the RFI in September 2026.

- *Retirement Savings Lost and Found reporting.* Under section 303 of SECURE 2.0, DOL was directed to develop an online searchable database for participants to search for retirement plan accounts that they may have lost track of over time. SECURE 2.0 requires DOL to prescribe regulations for the collection of information in connection with the Lost and Found database. The Agenda updates the projected date for a proposed rulemaking to November 2026.
- *Paper statement/e-disclosure safe harbor.* The Agenda continues to include a project to implement section 338 of SECURE 2.0, which generally requires that plans furnish a paper benefit statement, at least once annually, for participants who do not elect otherwise. DOL issued proposed regulations in February 2026, and the 2026 Agenda states that DOL will analyze comments in July 2026. In addition, this project is now listed as "Economically Significant" (instead of "Other Significant" in the Spring 2025 Agenda).

- Default Electronic Disclosure for Group Health Plans. The Agenda continues to include a project to "reduce the costs and burdens imposed on employers and other plan fiduciaries responsible for producing and distributing welfare plan disclosures, including group health plans." The Agenda updates the projected date of a proposed regulation to July 2026. This project was submitted to OMB for review on May 13, 2026.
- PBM Fee Disclosure Transparency. A proposed regulation on improving transparency into pharmacy benefit manager (PBM) fee disclosures was issued in January 2026. The Agenda states that a final rule is targeted for September 2026.

Treasury Department and Internal Revenue Service

The list of new and returning employee benefits-related projects on the IRS Agenda includes many driven by legislative changes including the One, Big, Beautiful Bill Act, and SECURE 1.0 and 2.0. First, the new projects:

- Trump Accounts. The Agenda includes multiple Trump account-related projects that were not listed in the Spring 2025 Agenda. Much of the guidance released thus far has been in a form other than regulations.
  - *Eligible investments for Trump accounts.* The Agenda includes proposed regulations – targeted for July 2026 – that would set forth guidance to determine the types of eligible investments that may be invested in a Trump account during the "growth period." This proposal was sent to OMB for review on July 6, 2026.
  - *Employer contributions and nondiscrimination rules for DCAPs.* Proposed regulations targeted for July 2026 would address both Trump account employer contributions and the parallel rules for nondiscrimination testing for dependent care assistance programs (DCAPs).
  - *"Catch-all" regulations.* A notice of proposed rulemaking targeted for July 2026 would cover issues that have not been addressed elsewhere, including: (1) the requirements for Trump accounts; (2) the treatment of contributions to, and distributions from, a Trump account; (3) reporting by trustees of Trump accounts; and (4) interaction with the requirements of IRAs in Internal Revenue Code (Code) section 408.
  - *Election for pilot program.* The Agenda targets November 2026 for finalizing the proposed regulations, released in March 2026, related to the $1,000 pilot contribution for children born in 2025-2028.

- Qualified Student Loan Repayments under SECURE 2.0. Section 110 of SECURE 2.0 permits employers to make matching contributions to plans with respect to qualified student loan payments (QSLPs). A new entry on the Agenda includes a proposed rulemaking to implement this provision, targeted for July 2026.

Notable carryover projects include the following:

- Guidance Projects Pertaining to SECURE 2.0:
  - *Automatic enrollment requirements under Code section 414A.* Section 101 of SECURE 2.0 generally requires that 401(k) and 403(b) plans established after December 29, 2022 must automatically enroll participants in the plan upon becoming eligible for plan years beginning in 2025. Proposed regulations were published in January 2025, and the Agenda now targets July 2026 for final action.
  - *Updates to required minimum distribution (RMD) rules.* In July 2024, the IRS released guidance implementing SECURE 1.0's RMD changes and issued proposed regulations for modifications made by SECURE 2.0. The Agenda now targets July 2026 for final action regarding the proposed regulations.
  - *Long-term, part-time employee rules.* SECURE 1.0 requires that long-term, part-time employees be eligible to participate in 401(k) plans, subject to certain requirements on minimum hours and completed years of service. SECURE 2.0 amended the years of service requirement from three years to two years. The IRS released a proposed rule in November 2023 on both the SECURE 1.0 and SECURE 2.0 provisions. The Agenda now targets final action for September 2026.
- Nondiscrimination Relief for Closed Defined Benefit Plans. The Agenda continues to list a regulatory project that would amend regulations regarding the treatment of grandfathered employees to reflect SECURE 1.0 modifications. The Agenda now estimates a proposed rule will be released in September 2026.
- Rules Relating to the Use of Electronic Media to Make Participant Elections and Spousal Consents. The Agenda continues to include a project to provide rules relating to the use of electronic media to make participant elections and spousal consents. Proposed rules were published in December 2022; the Agenda estimates that final action will take place in September 2026.
- Safe Harbor Rules Relating to Required Distributions, Missing Participants, and Uncashed Checks. The Agenda carries over a project that states that the IRS will issue a proposed regulation "under which a plan is treated, under [section] 1.401(a)-22(a)(1), as satisfying the requirements of section 401(a), 403(a), or 403(b) of the [Code] with respect to a distribution to a participant (including a beneficiary or alternate payee) required under the plan that has not been timely completed because the participant cannot be found." The Agenda now targets July 2026 for a proposed rulemaking.
- Section 415(c) Definition of Compensation Relating to Back Pay. The Agenda continues to include a project to modify the rules relating to the definition of compensation for purposes of the limits on contributions and benefits under a qualified retirement plan as that definition relates to the treatment of payments of back pay. The Agenda now targets July 2026 for a proposed rulemaking.
- Determination of Target Normal Cost and Funding Target. To reflect legislative changes, the Agenda continues to list a project to modify the rules under the minimum funding requirement applicable to single-employer defined benefit plans relating to the determination of a plan's

target normal cost and funding target. The Agenda updates the target date for a proposed regulation to July 2026.

- Application of Employer Shared Responsibility/Nondiscrimination Rules to HRAs. The Agenda carries over from the Spring 2025 Agenda a project to issue regulations regarding the application of employer shared responsibility provisions to HRAs and other account-based group health plans. Proposed regulations were issued in 2019, and the Agenda now targets July 2026 for final action.

New Simplified Part D Creditable Coverage Determination Method Will Apply in 2027

The simplified method many group health plan sponsors use to determine if their prescription drug benefits are "creditable coverage" under the Medicare Part D rules will be changing in 2027. Following a two-year transition period prompted by legislative changes to the Part D benefit that started taking effect in 2025, a new simplified method will fully replace the one that has been available since 2009.

Background

Each year, group health plans that offer prescription drug coverage to Medicare Part D eligible individuals – either as active employees, retirees, or their spouses and dependents – must determine if that coverage is "creditable," and share that determination with CMS and with all Part D eligible individuals who are enrolled in, or seeking to enroll in, the coverage. This determination is significant because individuals who have "creditable coverage" can delay their enrollment in Medicare Part D without incurring a late-enrollment penalty.

The disclosure to CMS is required no later than 60 days after the start of the plan year, and within 30 days after any change in the creditable status during the year or the termination of such coverage. The disclosure to Part D eligible individuals must occur before October 15 each year, which is when the annual Medicare Part D enrollment window opens. This disclosure also must occur at certain other specified times, such as before an individual's initial enrollment period for Medicare Part D begins.

The general rule is that prescription drug coverage is "creditable" only if its actuarial value "equals or exceeds the actuarial value of defined standard prescription drug coverage under Part D in effect at the start of such plan year." While this determination can be made using "generally accepted actuarial principles and in accordance with CMS guidelines," CMS guidance dating back to 2009 also provides a simplified determination method (the 2009 simplified methodology) for group health plans that do not receive the retiree drug subsidy (RDS).

The Inflation Reduction Act of 2022 made significant changes to the Medicare Part D benefit, including eliminating the coverage gap. As a result, CMS proposed that the simplified determination method no longer be available beginning in 2025 because it "would no longer be a valid methodology to determine whether … an entity's prescription drug coverage is creditable." But after considering concerns about the impact of discontinuing the simplified determination method on group health plan sponsors and Part D eligible individuals, CMS decided to allow continued use of the simplified method in 2025.

For 2026, CMS adopted a revised simplified method (the 2026 simplified methodology) for group health plans that do not receive the RDS. Under the 2026 simplified methodology, eligible group health coverage is creditable if it:

- Provides reasonable coverage for brand name and generic prescription drugs and biological products;
- Provides reasonable access to retail pharmacies; and
- Is designed to pay on average at least 72 percent of participants' prescription drug expenses.

However, in order to ease concerns about the impact of the 2026 simplified methodology, CMS decided to allow plans to use the 2009 simplified methodology in 2026 as well.

What's New in 2027?

According to final regulations recently issued by CMS, the 2009 simplified methodology will no longer be available in 2027 and beyond. Instead, group health plans eligible to use the simplified methodology will follow an updated version of the 2026 simplified methodology, with the only difference being that instead of the prescription drug benefit being designed to pay on average at least 72 percent of participants' prescription drug expenses, the threshold will be 73 percent. The final regulations also provide this percentage threshold will be periodically updated by subregulatory guidance to be published by CMS.

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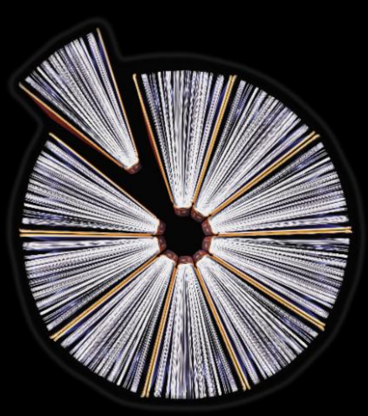

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