



COMPLIANCE SERVICES Alert



June 6, 2018

Upcoming key compliance deadlines and reminders for third quarter 2018

The dog days of summer are nearly upon us, which means employee benefit plans operating on a calendar year ERISA plan year are revving up to finalize their 2017 Form 5500 filing.

For ERISA and non-ERISA self-funded medical plans, the Patient-Centered Outcomes Research Institute (PCORI) tax looms. Sponsors of fully insured and otherwise funded ERISA plans (e.g., a funded plan would be one where plan assets are held in trust) must provide a summary of the plan's 2017 Form 5500 (i.e., the "summary annual report" or SAR). Some multiple-employer welfare arrangement (MEWA) sponsors may owe the second quarter's calculation of the annual fee on health insurance.

The five items listed below in this third installment of our quarterly reporting and disclosure reminders for 2018 are not necessarily applicable to all plans. If you have questions about the applicability of certain requirements to your plan, please contact your Lockton account team.

Here are potential action items for the third quarter of 2018 (through Sept. 30).

| Date | Actions | Notes |
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| July 30 | Make San Francisco HCSO contributions for prior calendar quarter. | If the employer is subject to the San Francisco Health Care Security Ordinance (HCSO) and, with respect to enrollees in a self-insured plan, is not taking advantage of the new <i>annual</i> calculation of expenditures required by the HCSO. |
| July 31 | File Form 5500 for 2017 plan year (calendar year plans; non-calendar year ERISA plans subject to the Form 5500 requirement can determine the due date by adding seven months to the last day of the | ERISA plans with a calendar year plan year must file Form 5500 by July 31 annually. This applies to all ERISA plans, unless otherwise exempted (for example, due to small size, as explained below). Filing is completed electronically through the Department of Labor's (DOL) EFAST2 portal. More |

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| | <p>plan year; a plan with a fiscal year ending Feb. 28, for example, must file a Form 5500 by Sept. 30).</p> | <p>information on how to file electronically can be found here.</p> <p>Welfare plans that are fully insured, unfunded (claims paid from employer and/or employee pretax contributions held in the employer's general asset account) or a combination of both, are excused from filing if they have fewer than 100 participants covered on the first day of the ERISA plan year.</p> <p>Form 5500 extensions are available by filing a Form 5558 with the DOL on or before the filing's initial due date. Filing Form 5558 can allow the plan up to an additional 2½ months to complete the filing.</p> |
| July 31 | <p>Submit PCORI tax.</p> | <p>For <i>employer</i> sponsors of group medical plans, the PCORI tax is payable only for self-insured plans (insurers pay the tax for fully insured medical plans). The fee is due each July 31 with respect to the plan year ending in the prior calendar year.</p> <p>The fee amount is \$2.26 per covered life if the plan year ended on or between Jan. 1 and Sept. 30, 2017, or \$2.39 per covered life if the plan year ended on or between Oct. 1 and Dec. 31, 2017.</p> <p>The fee does not apply to "excepted benefits," like most health flexible spending accounts, or to health reimbursement arrangements (HRAs) where the HRA and associated medical plan are self-insured and have the same plan year.</p> <p>The PCORI tax may NOT be paid with ERISA plan assets, except in the case of a multiemployer plans. The tax is submitted with and reported on IRS Form 720, under Part II.</p> |
| Sept. 30 | <p>Distribute Summary Annual Report (for calendar year ERISA plans filing their Form 5500 by July 31).</p> | <p>The SAR is a summary of the plan's Form 5500 filing for the previous plan year, and must be distributed to participating employees, former employees, COBRA beneficiaries and Qualified Medical Child Support Order (QMCSO) recipients within nine months after the close of that plan year. However, if the Form 5500 is filed under an extension of time described above, the SAR is due two months after the Form 5500's extended due date.</p> <p>The SAR requirement does not apply to self-funded plans that pay benefits exclusively from employer's general assets (if employees pay premium under the self-funded plan, their contributions must be made through a Section 125 cafeteria plan and cannot be held in trust for this exception to apply).</p> <p>SAR language is rather standard, and the disclosure may be made according to the DOL's requirements for electronic disclosure, if desired.</p> |

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| Sept. 30 | Pay Annual Fee on Health Insurers. | <p>Self-funded MEWAs (these are rare) must make fee payments by Sept. 30 by electronic transfer. Self-funded MEWAs with \$25 million or less in net written premiums for a "data year" will not owe any annual fee for the "fee year" that follows.</p> <p>As a reminder, this is the payment for the premium reporting due to the IRS by April 17, 2018, and the subsequent fee calculation from the IRS. It is recommended that each sponsor reviews the IRS's calculation to identify potential errors therein.</p> |
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*Ethan McWilliams, Senior Compliance Analyst
Compliance Services*

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Lockton Benefit Group | 444 West 47th Street | Suite 900 | Kansas City | MO | 64112