



Weekly Digest

• June 9, 2020 •



IRS Notice 2020-44: Insured and Self-Insured Health Plans Adjusted Applicable Dollar Amount for PCORI Fee

"The fee imposed by Sections 4375 and 4376 helps to fund the Patient-Centered Outcomes Research Trust Fund (PCORTF) and is calculated using the average number of lives covered under the policy or plan and the applicable dollar amount for that policy year or plan year. The applicable dollar amount that must be used to calculate the fee for policy and plan years that end on or after October 1, 2019, and before October 1, 2020, is \$2.54." [Full Article](#)

Internal Revenue Service

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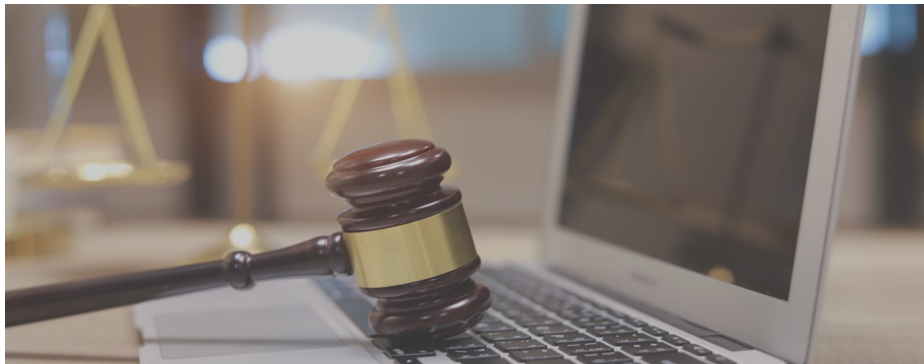
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New Data on the Cost of COVID-19 Treatment for U.S. Private Insurers

"The overall assumed rates of hospitalization for infected individuals has been reduced to align with recent studies. The rate has also been adjusted for age and morbidity differences by line of business. The estimated unit cost of a COVID-related hospital admission has been increased based on survey data provided by AHIP members. Estimated impacts of deferred care on overall healthcare spend was included and combined with the COVID treatment costs to arrive at a combined impact on cost of care by line of business." [Full Article](#)

America's Health Insurance Plans

The HEROES Act: Key Retirement, Health and Welfare, and Tax Provisions

"The Act reflects the House Democratic majority's priorities, and some of the provisions could be included as part of a bipartisan compromise package. This alert first summarizes key provisions of the HEROES Act impacting retirement plans and health insurance. It then discusses other provisions that may impact employers and individuals." [Full Article](#)

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The Return to the Supreme Court

"The Court could decide that neither Texas (nor the states that joined it) nor the individuals that sued had standing, and therefore, that this case should have been dismissed from the beginning. The Court could decide that, although the individual mandate no longer raises revenue for the United States, it is still a 'tax' and therefore, still constitutional under NFIB. The authors think the most likely outcome is that the Court strikes down the individual mandate on the basis that it is no longer a constitutionally permitted tax, but severs the mandate from the statute, allowing implementation of the law to proceed essentially as it is now." [Full Article](#)

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Rethinking Employee Benefits in Light of COVID-19

"As the United States begins to open back up, many employers are re-evaluating a return to the traditional workplace and are exploring continuing work from home arrangements, either permanently or on an intermittent basis. Employers who offer extended WFH arrangements should consider the following benefit modifications or enhancements: stipends or expense reimbursements, flexible work schedules and paid time off, childcare assistance, mental health benefits, financial wellness programs, and health checks." [Full Article](#)

Wilkins Finston Friedman Law Group LLP



Cases Highlight Importance of Governing Law Clauses in ERISA Plan Documents

"The U.S. Court of Appeals for the Tenth Circuit recently held that the choice of law provision contained in a long-term disability insurance policy controlled when determining which state law applied to the case. The U.S. District Court for the Southern District of Florida dismissed Apex Technology's claims against the flexible benefits plan of Oracle (the employer). This district court previously found that the forum selection clause in Oracle's plan document was enforceable. The court held that dismissal was the proper mechanism for enforcing the forum selection clause and thus, Apex was required to refile its claims in the proper forum." [Full Article](#)

Haynes and Boone, LLP