



Weekly Digest

• July 21, 2020 •



Proposed Regs Would Increase Flexibility for Grandfathered Health Plans

"The [proposal](#) includes updated statistics on grandfathered plans: In 2019, approximately 22% of employers that offered health benefits offered at least one grandfathered group health plan (down from 72% in 2011), and 13% of workers with employer-sponsored coverage were enrolled in a grandfathered group health plan in 2019 (down from 56% in 2011). Although the number of grandfathered plans has decreased each year since the ACA was enacted, the agencies believe that some employers, insurers, and participants continue to find value in grandfathered plans." [Full Article](#)

Thomson Reuters / EBIA



Supreme Court Upholds Rules Expanding Exemptions to ACA's Contraceptive Mandate

"As a result of the Supreme Court's ruling, the following exemptions to the contraceptive mandate will apply: 1. Any individual or nongovernmental entity that objects to providing coverage of contraceptives and related services based on sincerely held religious beliefs will be exempt; 2. An entity or individual that objects to coverage based on sincerely held moral convictions is exempt. Publicly traded entities are not eligible for this exemption." [Full Article](#)

Fisher Phillips

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Group Health Plans Must Cover Some -- Not All -- COVID-19 Testing

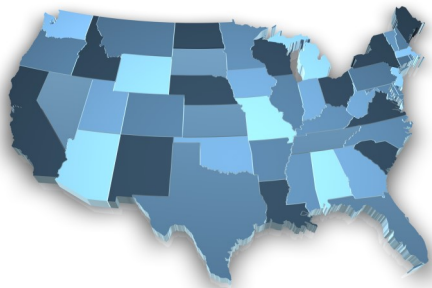
"[Part 43 of the ACA FAQs](#) confirms private health insurance plans must cover COVID-19 testing and related services used for diagnostic purposes without cost-sharing, but excludes non-diagnostic (surveillance) testing from its scope. This means that plans may deny coverage for testing conducted solely as a return to work mandate or for other non-diagnostic purposes." [Full Article](#)

Davis Wright Tremaine LLP

HHS Final Regs Address Disclosures of Substance Use Disorder Records to Align More Closely with HIPAA

"The final regulations reiterate that, if a patient consents to disclosure of information for payment or health care operations, the recipient of the patient information may further disclose the information to its contractors, subcontractors, and legal representatives for payment and health care operations without additional consent. The regulations now contain a non-exhaustive list of activities (previously mentioned only in a regulatory preamble) that will be considered payment and health care operations. Listed activities include claims management, obtaining payment under a contract for reinsurance, underwriting, enrollment, determinations of eligibility or coverage, medical necessity reviews, care coordination, and case management." [Full Article](#)

Thomson Reuters / EBIA



Tracking Telehealth Changes State-by-State in Response to COVID-19

"As states and federal agencies continue to combat the COVID-19 pandemic, they are also beginning to develop and implement permanent telehealth policy changes in order to continue to expand access to telehealth services beyond the pandemic period. A set of charts describes current and proposed state and federal guidance, regulations, and legislation." [Full Article](#)

Manatt, Phelps & Phillips, LLP

Allowing Cross-Plan Offsets Could Mean Danger for Plan Fiduciaries

"In light of these recent lawsuits, and especially the DOL's stated belief it is a violation of ERISA, plan sponsors should take time to review their service agreements with carriers and TPAs to determine if off-setting is part of their overpayment recovery method. While recovery of overpayments is a valid fiduciary interest for plans, plan sponsors should discuss other possible methods or compromises with their service providers that do not result in cross-plan offsets." [Full Article](#)

Graydon

COVID-19 Resource Guide: Employee Benefits Considerations for Reopening in 2020

"Outline provides action steps for various types of benefit plans. Topics include: 1. Onboarding furloughed employees; 2. Onboarding employees who have been laid off; 3. Other health and welfare plan considerations; 4. Other qualified plan considerations; 5. Reporting and disclosure considerations; 6. Fiduciary and governance issues; and 7. Planning for remainder of 2020 and for 2021." [Full Article](#)

Troutman Sanders