

Weekly Digest

• November 23, 2021 •

HHS Announces Adjustments to Civil Monetary Penalties for HIPAA, MSP, and SBC Violations, Effective November 15, 2021

"Offering incentives to Medicare-eligible individuals not to enroll in a plan that would otherwise be primary: \$9,753 (up from \$9,639). Failure of responsible reporting entities to provide information identifying situations where the group health plan is primary: \$1,247 (up from \$1,232). The penalty for a health insurer's or non-federal governmental health plan's willful failure to provide an SBC is \$1,190 (up from \$1,176) for each failure." [Full Article](#)

Thomson Reuters / EBIA



Employer-Provided COVID-19 Testing: An Employee Benefits Q&A

"Does a medical plan have to cover all testing for unvaccinated employees enrolled in coverage? If a plan does not currently cover employment-based testing, may it be amended to do so? Are there factors employers may want to consider if they want unvaccinated employees to pay for their own testing? What if an employer decides to pay for employment-based testing outside of the medical plan? If an employer pays for employment-based testing, are employees subject to a tax on the cost of the testing?." [Full Article](#)

Ogletree Deakins

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Potential Costs and Impact of Health Provisions in the Build Back Better Act

"This brief summarizes major health provisions as of the bill reported to the House Rules Committee on November 3, 2021, which, at the time of publication, has not yet received a CBO score. Negotiations are ongoing and there may be future changes." [Full Article](#)

Henry J. Kaiser Family Foundation

Fate of OSHA's COVID-19 Vaccine ETS in the Hands of Sixth Circuit Court of Appeals

"The Sixth Circuit has not set a briefing schedule. However, given the number of parties, the complexity of the legal issues that are unlikely to be resolved within a few weeks, and the irreparable harm the petitioners would suffer if the ETS remained in effect, as outlined by the Fifth Circuit, there are strong arguments in favor of the Sixth Circuit maintaining the stay already in place." [Full Article](#)

Jackson Lewis P.C.



Supreme Court to Hear Argument on Federal Law Governing Dialysis Coverage Under Employer Group Health Plans

"DaVita has zeroed in on the coverage provisions for dialysis in health plans and argued that they violate a particular section of the Medicare Secondary Payer Act which prohibits employers and their group health plans from 'taking into account' that a participant is eligible for Medicare and differentiating in coverage between participants with end stage renal disease (ESRD) and those without it. The crux of these disputes and the split between the Sixth Circuit and Ninth Circuit involves the uniformity exception found in the implementing regulations for this prohibition." [Full Article](#)

Graydon



Court Dismisses Former Employee's COBRA Claims Against TPA

"The court found that due to a mistake, the employee's insurance coverage was not actually terminated by the insurer. Noting that the insurer had not attempted to recoup any benefits, the court concluded that the employee had suffered no damages." [Full Article](#)

Thomson Reuters / EBIA