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EMPLOYMENT LAW BULLETIN

A Monthly Report On Labor Law Issues

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HEALTH INSURANCE COST INCREASES CAUSE EMPLOYERS TO LOOK FOR ALTERNATIVES

The Wall Street Journal reports that U.S. businesses are facing the biggest health-insurance cost increases in 15 years or more. Costs for employer coverage are expected to go up about 9.5% in 2026. The recent average is around $25,500 for a family plan. Employers are trying to adjust by changing plan designs, or pushing more costs to employees. Others are looking at new plan designs that could include changes such as limits on access to certain doctors or hospitals or to certain expensive drugs such as those for weight loss. Some of the newer ideas include reference-based pricing vendors which determine a provider's payments from Medicare rates, plus a premium ranging from 25-50%; use of individual coverage plans, not group plans, to help employees buy coverage on the exchanges; the use of catastrophic/bronze plans as part of HSA along with other options which can reduce employer premium costs while keeping competitive with new catastrophic options. The idea of the latter is to have an Obamacare-compliant core plan but add HSA-qualified catastrophic plan options to be more competitive to retain younger/healthier workers while maintaining compliance. Obviously, employers will continue to negotiate with vendors to offset some of the cost increases. Some employers are experimenting with their own tools to manage healthcare costs such as packages for gym memberships and fitness apps.

Premiums are also surging for ObamaCare health insurance coverage, and more are exploring so-called catastrophic coverage, as median Affordable Care Act (ACA) premiums next year are reportedly increasing around 18%, and there are changes in enrollment rules expected to lead to fewer enrollees next year.

Individuals who make too much or too little to qualify for assistance on the Obamacare health insurance exchanges can apply for an exemption to purchase catastrophic plans during open enrollment starting November 1 according to guidance issued by the Trump administration.

Catastrophic health plans have low monthly premiums and very high deductibles. They may be an affordable way to protect individuals from worst-case scenarios, like getting seriously sick or injured. If individuals qualify for premium tax credits or cost-sharing reductions a Bronze or Silver plan may be a better value.

People under 30 and others who qualify for a hardship exemption or affordability exemption (based on Marketplace or job-based insurance being unaffordable) are eligible for catastrophic health plans. Anyone who does not qualify for advanced premium tax credits or cost-sharing reductions can apply for a hardship exemption to purchase a catastrophic plan. This includes making less than 100% or more than 250%, of the federal poverty level.

Catastrophic plans cover the same 10 essential health benefits as other Marketplace plans, including preventive services at no cost. They also cover at least 3 primary care visits per year before the deductible. For more information go to: Catastrophic health plans | HealthCare.gov

Separate from the catastrophic health plan rules, changes in the Obamacare enrollment rules are expected to result in as many as 1.8 million fewer enrollees next year. The changes are intended to reduce significant fraud. For example, the Congressional Budget Office reported that 2.3 million enrollees intentionally overstated their income to obtain premium tax credits in 2025. A federal judge in Maryland paused the changes to the enrollment rules before they were scheduled to take effect, but the Trump administration has appealed the decision.

In general, these rule changes should not affect employers, but it is possible that some employers will benefit if employees are no longer eligible for premium tax credits or cost sharing reductions.

CHANGES IN TAX RULES ON TIPS AND OVERTIME

Beginning for tax year 2025, there is a new deduction whereby filers can deduct up to $25,000 of their tips for those taking standard deductions and for those who itemize, even if they are self-employed. For non-employees, qualified tips are deductible only to the extent gross income from the sole proprietor's business, including tips, exceeds deductions from that business, other than the deduction for qualified tips. The tip deduction ends after 2028. There are a lot of details for the deduction, and only qualified tips are deductible. Tips must be from an occupation that traditionally receives tips.

There is also a new tax deduction for up to $12,500 of overtime pay ($25,000 for joint filers). As on tips, these deductions are available to tax payers either who claim the standard deduction or who itemize. Also, like the tip deduction, these deductions end after 2028.

Employer reporting of tips on the Form W-2 and for qualified overtime pay is voluntary for 2025. The IRS says it will issue transitional relief for employers who made good-faith efforts to comply with the reporting rules.

THE LOW-HIRE, LOW-FIRE ECONOMY

Federal Reserve Chair Jerome Powell said in early October that: "You've got a low-firing, low-hiring environment." He goes on to say that if layoffs are seen, "That could very quickly flow into higher unemployment." The current jobless rate is at 4.3%, but there are a growing number of people unable to leave their jobs or are underemployed. Further, employers may have been prolonging layoffs while trying to figure out which direction the economy is going. Also, the number of discouraged workers who have given up job searches or who have currently only been able to find part-time employment, climbed to the highest level in almost four years. Thus, in today's current economic environment you rarely hear the old words: "Take this job and shove it."

THE EEOC RE-ESTABLISHES QUORUM, WHILE SOME TRUMP PICKS ARE CONFIRMED BY SENATE

On October 7, 2025, the U.S. Senate confirmed a number of nominees appointed by President Trump to various employment agencies. The vote was 51-47.

Among those confirmed was Andrew Rogers, who has been serving as Acting General Counsel of the Equal

Employment Opportunity Commission (EEOC), who was confirmed as Wage & Hour Division Administrator. David Keeling will become Assistant Secretary of Labor for Occupational Safety & Health Commission, previously serving in various safety positions at UPS and Amazon.

Arguably the most important confirmation was Brittany Panuccio to the EEOC, restoring a quorum of EEOC members for the first time during the Trump Administration. There will now be three EEOC members, two of which were appointed by Republican presidents. The quorum at the EEOC can move ahead effectuating the current Administration's priorities as to policy and enforcement guidance. It is likely that the Commission will address what it considers to be unlawful forms of Diversity, Equity, and Inclusion (DEI), and will likely address enforcement guidance on harassment in the workplace, implementation of the Pregnant Workers' Fairness Act, and particularly portions of these laws related to transgender employees and the definition of "pregnancy, childbirth, and related medical conditions." There may be greater enforcement of religious rights as well, and further efforts to protect American workers from national origin discrimination. Religious practices remain a developing area of the law since a recent U.S. Supreme Court ruling increased the burden on employers to show that a requested religious accommodation is an undue hardship. Acting Chair Lucas has also fully endorsed the President's Executive Order 14168 to protect men and women as biologically distinct sexes. The Acting Chair has also directed staff to close almost all pending disparate impact investigations, according to media reports. Some believe the EEOC will address annual EEO-1 reports, which require employers to disclose data on the employees' sex, race, and ethnicity.

At the Occupational Safety and Health Administration (OSHA), there will likely be a shift towards less regulation, possibly including the union walk-around rule, electronic injury reporting requirements and the public release of workplace injury data.

EMPLOYERS SUED FOR NOT MEETING EEO-1 REPORTING OBLIGATIONS

During 2024, for the first time, the EEOC filed some 18 lawsuits against employers who did not file EEO-1 reports. Employers with 100 or more employees and federal contractors with 50 or more employees are required to file EEO-1 reports annually.

JURY BRINGS BACK A $3 MILLION VERDICT FOR FAILURE TO ACCOMMODATE REMOTE WORK

One of the most common areas of litigation under the Americans With Disabilities Act (ADA) relate to workers who request to work remotely as a reasonable accommodation for some type of disability. While employers appear to be winning a majority of these lawsuits, there are some notable exceptions. In October, two dispatchers were each awarded $1.5 million in damages for being illegally denied telework arrangements for COVID-19 risks imposed by their disabilities. The claims were brought under the ADA along with the New York State Human Rights Law and the New York City Human Rights Law. The jury awarded each employee $1 million in punitive damages, along with various amounts for backpay and emotional distress. The key issue before the jury was whether in-person attendance was an essential job function of the plaintiffs' role as dispatchers. *Russo v. Nat'l. Grid, U.S.A.*, No. 1:23-cv-03954 (E.D. N.Y. verdict entered 10/14/25). The jurors found that the employer failed to show how their requests caused undue hardships for the company.

WORKPLACE INVESTIGATIONS LARGELY SHUT DOWN, BUT COURTS REMAIN OPEN DURING SHUTDOWN FOR NOW

Investigations into labor and employment matters will largely cease as the Department of Labor (DOL), the National Labor Relations Board (NLRB) and the Equal Employment Opportunity Commission (EEOC) have very limited operations during the funding freeze. Neither unfair labor practices charges at the NLRB nor discrimination charges at the EEOC will be processed, and the same applies to union representation cases. At OSHA, all non-essential enforcement efforts will be suspended, but about a quarter of the staff members will be retained to continue operations on enforcement activities deemed emergencies. OSHA will also continue enforcement activities on open cases as needed to meet its six-month statutory deadline. It does appear that the EEOC during the shutdown will continue to accept discrimination charges, but will not investigate them.

The situation in the federal court system is somewhat different, as they operate from separate funds that are enough to pay staff at least until October 17. When the funds run out, it is likely that the federal court system will address only those cases that must constitutionally be required to move forward. In the federal system, each court will determine its own resources needed to support core work.

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