

AUGUST 2014

WEBINAR: Social Media Policies in the Workplace

Thursday, August 21, 2014 – 2:00 p.m. - 3:00 p.m. EDT

[Click to learn more and register](#)

Social Media presents a range of challenges to business large and small. From simple decisions like allowing or restricting access in the workplace, to more complex issues such as complying with recent NLRB enforcement action, employers must implement well designed policies to limit abuse while leveraging social media to improve their business. Our one hour webinar will address numerous aspects of social media and provide practical solutions to the most common problems.

This educational webinar has been submitted to the HR Certification Institute (HRCI) for 1 general hour of continuing education credit towards PHR, SPHR and GPHR certifications.

2015 Pay or Play Calculators & Timeline for Compliance

Certain employers must comply with the Affordable Care Act's [Employer Shared Responsibility provisions](#) (also known as "Pay or Play") in less than 6 months. HR360's attorney-reviewed, downloadable [Pay or Play Toolkit and Calculators](#) can help prepare those subject to the law.

Three Calculators Available

The *Large Employer Status Calculator* can be used to calculate an employer's average number of full-time employees (including full-time equivalent employees or FTEs) to determine whether the employer is subject to Pay or Play for a calendar year.

There are two separate *Penalty Calculators* for 2015 that can be used to calculate the potential amount of a penalty--one for employers with **50 to 99 full-time employees** and one for employers with **100 or more full-time employees**.

Compliance Timeline...

Employers with 50 to 99 full-time employees (including FTEs) are subject to Pay or Play, but the requirements will not apply until 2016 for employers who certify that they meet certain eligibility criteria related to workforce size, maintenance of workforce and aggregate hours of service, and maintenance of previously offered health coverage.

Employers with 100 or more full-time employees (including FTEs) are subject to the requirements for 2015 and must offer coverage to at least 70% of full-time employees (and their dependents, unless transition relief applies) to avoid a penalty for failing to offer health coverage, rather than 95% which will begin in 2016. An employer that offers coverage to at least 70% of full-time employees may nevertheless owe a penalty if any full-time employee receives a premium tax credit.

Visit our [Pay or Play \(Employer Shared Responsibility\)](#) section for more information, including an outline of the transition relief available for 2014 and 2015.

In This Issue...

WEBINAR:
Social Media Policies
in the Workplace

2015 Pay or Play
Calculators & Timeline
for Compliance

Updated EEOC
Enforcement Guidance on
Pregnancy Discrimination
and Related Issues

Longevity Annuities Are
Now Accessible to 401(k)s
and Other Retirement
Plans

Supreme Court Ruling &
Subsequent Guidance
on ACA Contraceptive
Mandate



Updated EEOC Enforcement Guidance on Pregnancy Discrimination & Related Issues

The U.S. Equal Employment Opportunity Commission (EEOC) recently issued updated [Enforcement Guidance](#) on pregnancy discrimination and other related issues, along with a [Q&A document](#) about the guidance and a [Fact Sheet for Small Businesses](#). This is the first comprehensive EEOC update on the subject of discrimination against pregnant workers since 1983.

In addition to addressing the requirements of the Pregnancy Discrimination Act (PDA), which prohibits sex discrimination on the basis of pregnancy, childbirth, or related medical conditions, the guidance discusses the application of the Americans with Disabilities Act (ADA) to individuals who have pregnancy-related disabilities.

The updated guidance also discusses:

- The fact that the PDA covers not only current pregnancy, but discrimination based on past pregnancy and a woman's potential to become pregnant;
- The circumstances under which employers may have to provide light duty for pregnant workers;
- Issues related to leave for pregnancy and for medical conditions related to pregnancy;
- When employers may have to provide reasonable accommodations for workers with pregnancy-related impairments under the ADA and the types of accommodations that may be necessary; and
- Best practices for employers to avoid unlawful discrimination against pregnant workers.

Both the PDA and ADA generally apply to employers with 15 or more employees. Additional protections may be provided under state and local nondiscrimination laws, which may apply to smaller employers.

Longevity Annuities Are Now Accessible to 401(k)s and Other Retirement Plans

[Final rules](#) were recently issued by the Internal Revenue Service regarding the use of longevity annuity contracts in certain tax-qualified defined contribution plans, including 401(k) and 403(b) plans, individual retirement annuities and accounts (IRAs), and certain other plans. A longevity annuity is an income stream--a type of "deferred income annuity"--that begins at an advanced age and continues throughout an individual's life.

Key Highlights

The final rules expand the permitted longevity annuities in several respects, including by **making them accessible to 401(k)s and other employer-sponsored individual account plans and IRAs**. In addition, the rules:

- **Increase the maximum permitted investment.** Under the final rules, a 401(k) or similar plan, or IRA, may permit plan participants to **use up to 25% of their account balance or (if less) \$125,000** to purchase a qualifying longevity annuity without concern about noncompliance with minimum distribution requirements. The dollar limit will be adjusted for cost-of-living increases.
- **Protect individuals against accidental payment of longevity annuity premiums exceeding the limits.** The final rules permit individuals who inadvertently exceed the 25% or \$125,000 limits on premium payments to correct the excess without disqualifying the annuity purchase.



Visit our section on [Discrimination](#) for more information regarding employer obligations under the PDA, ADA, and other federal nondiscrimination laws.



The regulations apply to contracts purchased on or after July 2, 2014. [Click here](#) to review the rules in their entirety.

Visit our section on [Retirement Plans](#) to learn more about an employer's responsibilities with respect to employer-sponsored retirement plans.

Supreme Court Ruling & Subsequent Guidance on ACA Contraceptive Mandate



Starting with plan years beginning on or after August 1, 2012, the Affordable Care Act generally requires non-grandfathered group health plans to cover [additional women's preventive services](#), such as contraceptive coverage, without cost-sharing. The contraceptive mandate is subject to [exemptions and accommodations](#) for religious employers and certain other non-profit religious organizations.

Supreme Court Ruling

On June 30, 2014, the U.S. Supreme Court [ruled](#) that the ACA's requirement to provide certain contraceptive coverage without cost-sharing, as applied to closely held corporations, violates the Religious Freedom Restoration Act (RFRA). **As a result of the ruling, closely held for-profit corporations that object to this requirement based on sincerely held religious beliefs cannot be required to provide such coverage.** The decision did not address the RFRA's applicability to publicly traded corporations.

Subsequent Guidance

[Guidance](#) issued on July 17, 2014 from the U.S. Department of Labor states that closely held, for-profit corporations that intend to cease providing health coverage for some or all contraceptive services mid-plan year **will trigger notice requirements to plan participants and beneficiaries** if the plan is subject to the [Employee Retirement Income Security Act](#) (ERISA).

According to the guidance, if an ERISA plan excludes all or a subset of contraceptive services from coverage under its group health plan, the **plan's summary plan description (SPD) must describe the extent of the limitation or exclusion of coverage.**

For plans that reduce or eliminate coverage of contraceptive services after having provided such coverage, expedited disclosure requirements apply. The expedited disclosure requirements generally require disclosure **within 60 days** of adoption of a "material reduction in covered services or benefits." Other disclosure requirements may apply under state insurance laws.

To learn more about the requirement to cover recommended preventive services without cost-sharing, visit our section on [Preventive Services](#).

Marshall & Sterling Insurance will continue to provide you with updates and information regarding important issues. Should you have specific questions or need more information, please contact us.

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