

BLOG

Health & Welfare Plan Compliance Deadline Reminders for Summer 2022

By National Employee Benefits Practice

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Although the summer months bring many fun and relaxing activities, employers sponsoring health and welfare benefits for employees cannot fully relax until they meet certain compliance deadlines, particularly the Form 5500 filing for ERISA governed plans and the PCORI fee filing and payment for self-funded health plans.

Read on for more information about those requirements.

Form 5500

Employers sponsoring ERISA-governed group health and welfare plans with at least 100 plan participants enrolled at the beginning of the plan year are required to file a Form 5500. These forms are filed annually with the Department of Labor (DOL) and the Internal Revenue Service (IRS). Form 5500 requirements also apply to ERISA-governed qualified retirement plans. However, for the purpose of this article, we will focus on Form 5500 obligations for ERISA health and welfare plans, including medical, dental, vision, accident, and life insurance group plans, to name a few.

Form 5500 contains information about the type of plan and plan features, plan funding, the number of participants, service providers, and compensation for service providers, among other items.

Form 5500 is due seven months after the last day of the plan year, which typically turns out to be July 31st each year for ERISA calendar year plans. However, since July 31st falls on a Sunday in 2022, Form 5500 for is due on August 1, 2022 for ERISA calendar year plans. Employers may file an extension through IRS Form 5558 that provides an automatic two and a half month filing extension, resulting in an October 15th filing deadline for ERISA calendar year plans.

Small Plan Exception

ERISA health and welfare plans with under 100 plan participants enrolled on the first day of the plan year are not required to file a Form 5500. To determine the number of plan participants for filing purposes, employers must count only **enrolled employees, enrolled former employees receiving COBRA, as well as enrolled eligible retirees**. Spouses and dependents enrolled in the plan are **not** counted for participant count threshold purposes. Moreover, the plan participant count threshold includes any ERISA plan benefit, even if there are less than 100 plan participants enrolled in the health plan. Note that the small plan exception from filing a Form 5500 does **not** apply to plans funded by a trust or to MEWAs

(Multiple Employer Welfare Arrangements),

Wrap Plans

Generally, employers will “wrap” several health & welfare plans together for Form 5500 filing purposes. In these situations, each plan “wrapped” together will be considered a single plan, subject to the applicable “wrap” document, and only one Form 5500 is filed. If there is no “wrap” document in place, a Form 5500 must be filed for each plan with at least 100 plan participants enrolled at the beginning of the plan year.

Failure to File Form 5500

For employers that fail to file Form 5500, potential penalties can be steep (up to \$2,400 per day imposed by the DOL and up to \$250 per day from the IRS). The DOL provides a voluntary correction program for employers to become compliant with their Form 5500 filing obligations, which can be particularly helpful before a governmental audit is initiated. This program is called the Delinquent Filer Voluntary Compliance Program (DFVCP). Since the DOL has taken the position that there is no statute of limitations for filing the Form 5500, all missed filings must be included in the DFVCP for compliance purposes.

PCORI Fee Filing and Payment

The Patient-Centered Outcomes Research Institute (PCORI) filing and fee payment deadline of **August 1, 2022** for plan years ending in 2021 is quickly approaching. Plan sponsors of self-funded group health plans are responsible to file and pay the PCORI fee annually whereas fully-insured group health plans are assessed this fee in their monthly premium payments by their health insurance carriers. Click [here](#) for a prior Risk Strategies article for more information on the PCORI fee filing and payment deadline.

Risk Strategies account teams support employers with Form 5500 filing requirements and PCORI fee calculations. Please reach out to your Risk Strategies team members with any questions or concerns.

TAGS:

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