

Benefits Counselor – February 2026

GENERAL UPDATES

EBSA Announces Updated National Enforcement Priorities

On January 15, 2026, the U.S. Department of Labor’s (DOL) Employee Benefits Security Administration (EBSA) announced updated enforcement policies related to health and retirement plans for the 2026 fiscal year. EBSA investigators will prioritize the following cases:

- cybersecurity and data protection
- mental health and substance use disorder parity
- surprise billing compliance
- retirement asset management
- protecting benefit distribution
- criminal abuse of contributory benefit plans

EBSA removed employee stock ownership plans (ESOPs) from its project list and will reduce its focus on missing participants.

RETIREMENT PLAN UPDATES

IRS Issues Updated Model Eligible Rollover Distribution Notices

On January 15, 2026, the Internal Revenue Service (IRS) issued revised model eligible rollover notices and guidance updating safe harbor explanations that plan administrators may use to satisfy the requirements for eligible rollover distribution notices under Internal Revenue Code (Code) section 402(f). The IRS’s guidance and model notices, provided in Notice 2026-13, reflect changes implemented by the SECURE 2.0. Act of 2022 (SECURE 2.0).

IRS Extends SEP and SIMPLE IRA Plan Amendment Deadline

On January 26, 2026, the IRS extended the deadline for sponsors of SEP and SIMPLE IRA plans to make certain SECURE 2.0 Act amendments to December 31,

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2027. In its guidance in Notice 2026-9, the IRS stated that the extension will permit the IRS and U.S. Treasury Department to prepare additional guidance and model language to assist plan sponsors in their revisions, and additional time for plans to comply with SECURE 2.0.

Supreme Court to Hear *Anderson v. Intel*, Potentially Impacting Retirement Plan Investment Litigation

On January 16, 2026, the U.S. Supreme Court agreed to hear *Anderson v. Intel Corporation Investment Policy Committee*. Coming from the U.S. Court of Appeals for the Ninth Circuit, *Intel* involves allegedly underperforming and overly expensive alternative investments in Intel's defined contribution retirement plans. The case raises whether, under the Employee Retirement Income Security Act (ERISA), plaintiffs need to include in their pleadings a "meaningful benchmark" to properly allege a breach of fiduciary duty with respect to investment fund underperformance. The Ninth Circuit held that when a plaintiff alleges a fiduciary acted imprudently in selecting investment options, the plaintiff must provide a "meaningful benchmark" that costs are too high or returns are too low. By taking up this case, the Court may resolve a circuit split concerning the "meaningful benchmark" standard.

HEALTH AND WELFARE PLAN UPDATES

EBSA Releases Proposed PBM Fee Disclosure Rules

On January 29, 2026, EBSA released proposed regulations intended to bring transparency to the fees and compensation pharmacy benefit managers (PBMs) receive. The rule would require PBMs and certain PBM-affiliated brokers and consultants to make disclosures to self-funded group health plan fiduciaries. Fiduciaries would need to evaluate the disclosures to determine whether the PBM contract is reasonable under ERISA. The rule would also permit plan fiduciaries to audit the accuracy of PBM disclosures.

HHS Releases Guidance and Solicits Input on Direct-to-Consumer Programs

On January 27, 2026, the U.S. Department of Health and Human Services (HHS) released guidance as part of a request for information regarding direct-to-consumer pharmaceutical drug sales. The guidance clarifies how pharmaceutical manufacturers can offer lower-cost prescription drugs directly to patients. HHS is also seeking information about direct-to-consumer drug sale practices to

potentially develop a regulatory safe harbor.

Sixth Circuit Finds Anthem's Coverage Denial Process Violates ERISA

On January 22, 2026, the U.S. Court of Appeals for the Sixth Circuit issued an opinion in *T.E. v. Anthem Blue Cross & Blue Shield*, vacating a district court's decision. The district court had affirmed Anthem Blue Cross & Blue Shield's denial of medical claims; however, the Sixth Circuit found that Anthem inadequately explained its coverage denial. The court found Anthem's coverage decision was arbitrary, inadequately assessed clinician evidence and fell short of ERISA's requirement to provide specific reasons for the denial, making the administrative process defective.

HRSA Expands Preventive Service Guidelines to Cervical Cancer Screening

On December 29, 2025, HHS's Health Resources and Services Administration (HRSA) issued updated women's health preventive services guidelines to include self-collected cervical cancer screening samples. HRSA's guidance will permit women aged 30 to 65 with average risk to perform self-collection for cervical cancer screening in lieu of a collection by a health care provider. While patients that meet the criteria may opt to self-test, they can also choose to have a test performed by a health care provider. The HRSA guidelines require self-collection testing to be a covered service without cost-sharing for non-grandfathered health plans for plan years beginning on or after Jan. 1, 2027.

Maximum Annual Limits on Cost Sharing Announced for 2027

HHS recently announced the maximum annual limitations on cost-sharing for non-grandfathered health plans for 2027. The annual out-of-pocket limits will be \$12,000 for self-only coverage and \$24,000 for other than self-only coverage. This represents an approximately 13 percent increase above the 2026 parameters of \$10,600 for self-only coverage and \$21,200 for other than self-only coverage.

HHS Releases 2026 Civil Penalty Adjustments

On January 28, 2026, HHS published inflation adjustments to civil penalty amounts for 2026. Adjustments are effective for penalties assessed on or after January 28, 2026, for violations occurring on or after November 2, 2015. Increased penalties include those under the Medicare Secondary Payer rules, for failure to provide a summary of benefits and coverage (SBC) and under HIPAA.



COMPLIANCE DEADLINES AND REMINDERS

Health and Welfare Plans

- **HIPAA Annual Breach Report:** The annual report for HIPAA breaches affecting fewer than 500 individuals is due March 2, 2026, for breaches discovered during the 2025 calendar year. Breaches affecting 500 or more individuals must be reported within 60 days of discovery.
- **Medicare Creditable Coverage:** Plans must report the creditable coverage status of their prescription drug plan to the Centers for Medicare and Medicaid Services annually, no later than 60 days from the beginning of the plan year. For calendar year plans, this date is March 2, 2026.
- **Forms 1094-B and 1095-B, 1094-C and 1095-C:** Forms 1094-B and 1095-B, and 1094-C and 1095-C, must be filed with the IRS by March 2, 2026 (or March 31, 2026, if filing electronically). Forms 1095-B and 1095-C must be provided to individuals by March 2, 2026, unless posting the alternative notice online about the availability of these Forms.

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Reinhart's [Employee Benefits Practice](#) is one of the largest and most tenured in the country:

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