



HR & BENEFITS UPDATE

Congress & Labor Department Considering Tighter Retirement Plan Regulations

July 28, 2010

With health care reformed passed, Congressional leaders are considering the need to change federal retirement plan rules under the Employee Retirement Income Security Act or other laws. Employer and other retirement plan sponsors, fiduciaries, administrators, advisors and vendors should keep a close eye out for legislation or regulation that would impose additional obligations on the administration of retirement plans in light of this new scrutiny.

In June 16, 2010 [testimony](#) before the Senate Special Committee on Aging, Assistant Secretary for the Employee Benefits Security Administration (EBSA) Phyllis Borzi discussed steps the Labor Department is taking to explore lifetime income options for participants and beneficiaries in private-sector retirement plans. Her June 16 testimony, Ms. Borzi told Congress members the IRS and Labor Department are “committed to exploring what can be done through interpretation, regulation and legislation” to address the shift of financial risks of retirement to employees arising from the shift from defined benefit to defined contribution plans.

Ms. Borzi indicated the Departments are looking at regulatory and other changes to provide better information and tools to require or encourage retirement plans to offer lifetime income options and communication and other tools to help workers better prepare to make their savings last throughout their retirement years. She also reported that more than 800 comments were received in response to a Request for Information on lifetime income option alternatives jointly issued by the Labor Department and Internal Revenue Service. Ms. Borzi indicated that the Request for Information is intended to start a national dialogue about the reforms needed in this area and how best to address those needs.

Public policy initiatives have primarily focused on the accumulation stage of retirement planning. Only recently has there been a greater focus on the decumulation stage of retirement, and what workers and retirees do upon receipt of their retirement savings. Given the potential utility of lifetime income to participants in efficiently constructing their personal retirement incomes, Ms. Borzi told Congress the Labor Department will be considering if additional information could assist participants in this regard, and what impediments exist to providing such information. Some policy makers believe that providing participants with both the lump sum value of their accounts and the value of an equivalent income stream would be very valuable to workers who have to figure out how to make their savings last throughout their retirement years.

While Ms. Borzi said the Labor Department is still evaluating options, her comments clearly reflect that the Labor Department’s emphasis will focus heavily on promoting greater security for a lifetime stream of income after retirement. Her statements also signal that retirement plan sponsors, fiduciaries and vendors should expect to see changes in communication, funding and other retirement plan rules. If you need

assistance monitoring or responding to retirement plan or other employee benefits, employment or related regulations, or dealing with other employment or employee benefit concerns, please contact the author of this update, Board Certified Labor & Employment attorney Cynthia Marcotte Stamer at (469) 767-8872 or cstamer@solutionslawyer.net.

About the Author

Board Certified in Labor & Employment Law by the Texas Board of Legal Specialization, management attorney and consultant Ms. Stamer has more than 23 years experience working with employers, professional employment organizations, employee benefit plan sponsors and administrators and others on a wide range of labor and employment, employee benefits, and other management matters. A featured speaker in the June 29 ABA JCEB Teleconference on Worker Classification, Ms. Stamer is The Chair of the American Bar Association (ABA) RPTE Employee Benefits & Other Compensation Committee, a Council Representative on the ABA Joint Committee on Employee Benefits, Government Affairs Committee Legislative Chair for the Dallas Human Resources Management Association, the editor of Solutions Law Press HR & Benefits Update. Ms. Stamer also is recognized for her lengthy resume of publications, industry leadership, workshops and presentations on worker classification, and other employment, employee benefits, and related workforce and human resources concerns. She regularly speaks and conducts training for the ABA, Institute of Internal Auditors, Society for Professional Benefits Administrators, Southwest Benefits Association and many other organizations. Publishers of her many highly regarded writings on health industry and human resources matters include the Bureau of National Affairs, Aspen Publishers, ABA, AHLA, Aspen Publishers, Schneider Publications, Spencer Publications, World At Work, SHRM, HCCA, State Bar of Texas, Business Insurance, James Publishing and many others. You can review other highlights of Ms. Stamer's experience [here](#).

If you need help with human resources or other management, concerns, wish to ask about compliance, risk management or training, or need legal representation on other matters please contact Cynthia Marcotte Stamer [here](#) or (469)767-8872.

Other Resources

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- ✓ [2010 Health Plan Update: Learn What You Must Do Now To Meet Key 2010/2011 Affordable Care Act & Other Federal Health Plan Deadlines](#)
- ✓ [New Affordable Care Act Health Plan Appeals Regulations Require Health Plan Updates](#)
- ✓ [Blockbuster & Health Delivery Disability Discrimination Settlements Highlight Need For Tightened Disability Discrimination Risk Management](#)
- ✓ [Agencies Release Regulations Implementing Affordable Care Act Health Plan Preventative Care Mandates](#)

- ✓ New Retirement Plan Resource To Help Spanish-Speaking Participants With Retirement Planning
- ✓ Office of Civil Rights Proposes Changes To HIPAA Privacy, Security & Civil Sanctions Rules
- ✓ St. Louis Employer's OSHA Violations Trigger Contempt Order and Penalties
- ✓ **Review & Strengthen Defensibility of Existing Worker Classification Practices In Light of Rising Congressional & Regulatory Scrutiny**
- ✓ **Key Affordable Care Act Health Plan Coverage Mandates Guidance Issued June 28; Apply ASAP For Early Retirement Reinsurance Program**
- ✓ HHS, DOL & IRS Rules Define "Grandfathered" Group Health Plans & Health Insurance Coverage under the Patient Protection and Affordable Care Act
- ✓ New Rule Requires Federal Government Contractors To Post New "Employee Rights Under The National Labor" Poster
- ✓ Defined Contribution Plans Investing In Publically Traded Employer Securities Face New Requirements
- ✓ CBO Raises Estimated Cost of Health Care Reforms As Employers, Health Plans Brace Costs Of Newly Effective & Impending Mandates
- ✓ Certain Workforce Reductions Trigger Plant Closing Notice & Other Obligations
- ✓ Mishandling Employee Benefit Obligations Creates Big Liabilities For Distressed Businesses & Their Business Leaders
- ✓ DOL Plans To Tighten Employment Protections For Disabled Veterans & Other Disabled Employees Signals Need For Businesses To Tighten Defenses
- ✓ COBRA, HIPAA, GINA, Mental Health Parity or Other Group Health Plan Rule Violations Trigger New Excise Tax Self-Assessment & Reporting Obligations

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