

**RECENT LEGISLATION IMPACTS HEALTH , WELFARE AND TAX-QUALIFIED RETIREMENT PLANS**

<b>Legislation</b>	<b>Action Required</b>	<b>Effective Date</b>	<b>Amendment Deadline Date</b>	<b>Other Comments</b>
<b>MHPAEA</b>	Review all group health plan documents, summary plan descriptions and participant communications for compliance and amend as necessary.	The first day of the Plan Year beginning on or after October 3, 2009.	Same as Effective Date.	MHPAEA applies to group health plans with over 50 employees that offer coverage for any mental health condition or substance use disorder.  It permits a "cost exemption" for a group health plan that has implemented the new parity requirements for at least 6 months and can prove that the parity requirements are responsible for increasing actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits by more than 2% in the first plan year, or more than 1% for any subsequent plan year.
<b>HEART Act</b>	Review all tax-qualified retirement benefit plans, summary plan descriptions and participant communications for compliance and amend as necessary.  Consider amending any cafeteria plan and health flexible spending account arrangement offered to permit service members to get an early distribution.	See Other Comments.	For required tax-qualified retirement plan amendments, generally last day of the first Plan Year beginning on or after January 1, 2010.	The provision impacting qualified retirement plans is retroactively effective as of January 1, 2007. Flexible spending account arrangements may be amended retroactively to permit distributions made on or after June 18, 2008 if done so prior to January 1, 2010.  The impact of the HEART Act discussed in this Alert pertains only to certain health and welfare and pension benefits. The Act includes a number of other provisions that relate to military personnel and their families.
<b>Michelle's Law</b>	Review group health plans, summary plan descriptions and participant communications and amend as required.	The first day of the Plan Year beginning on or after October 9, 2009.	Same as Effective Date.	In order for a student to be covered by the Law, any change in full-time student status must (1) be medically necessary, (2) commence while the student is suffering from a serious illness or injury, and (3) cause the student to otherwise lose coverage under the plan.

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<b>CHIPRA</b>	Amend group health plans and update Notice of Special Enrollment Rights and summary plan descriptions to reflect amended HIPAA special enrollment rules.	April 1, 2009	Same as Effective Date.	New 60-day special enrollment period must be offered no later than April 1, 2009.
<b>Recovery Act</b>	Review all tax-qualified defined contribution retirement benefit plans, summary plan descriptions and participant communications for compliance and amend as necessary.	Effective for payments that would otherwise be required for calendar year 2009 only.	It is not clear yet whether plan amendments will be required. If they are required, the deadline will be the last day of the first Plan Year beginning on or after January 1, 2011.	The Act does not impact the minimum distribution requirement for 2008 even if the distribution is not made until 2009. Similarly, no relief is currently contemplated for minimum distribution requirements applicable to 2010.  Also, the impact of the Act discussed in this Alert pertains only to the provisions regarding the minimum distribution requirements. The Act includes a number of other provisions.
<b>GINA</b>	Review group health plans and employment policies to ensure genetic information is not being requested or received in violation of GINA. Update HIPAA policies, procedures and notices to ensure genetic information is addressed in compliance with the HIPAA nondisclosure rules amended by GINA.	With respect to the terms applicable to group health plans, the first day of the Plan Year beginning on or after May 21, 2009.	Same as Effective Date.	No additional comments.
<b>ADA Amendments</b>	The impact of these amendments on health, welfare and pension plans is not yet clear so it is premature to engage in any review and amendment process.	January 1, 2009.	To be Determined. See Other Comments.	Employers must be in good faith compliance to avoid discrimination claims. The forthcoming regulations may (or may not) require amendments to group health plans to address exclusions applicable to treatments for impairments that now may fall within the ADA's definition of disability. For example, reproductive function is considered a "major bodily function" under the ADA. Will that mean that restricting treatment for fertility will have to be covered in order to avoid a discrimination claim?

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