Renew Your Membership

April 2021 Legislative Newsletter

SPECIAL LEGISLATIVE MEETING:

Virtual meeting- May 6, 2021: 8:00 am - 9:30 am

ARPA And The COBRA Subsidies (Mini COBRA) Presented By David Mordo, Compliance Specialist Benefit Mall

Attendees will receive 1 CE credit (Course #107337)

GPAHU Members Register Here!!!

SAAHU Members Register Here!!!

On March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA) of 2021 into law. This law requires employers to subsidize the cost of Cobra continuation coverage (including Mini-Cobra) **from April 1, 2021 – September 30, 2021**. Mr. Mordo will dive deep into the responsibilities of the employer and the notices they need to send out to former employees who were involuntarily terminated from their positions, who is responsible to pay these premiums and how the employer is reimbursed for these premiums via subsidies from the Government.

AAHU Legislative Newsletter

Hope this finds you well, this April newsletter will review:

- **Session Update**
- **Legislative Bill Tracking**
- **Recent ERISA ruling**

Session Update

April 24th the Arizona 55th Legislature, 1st Regular Session reached the 100-day mark. Despite this artificial target date to adjourn coming and going, lawmakers rarely shutter the Capitol before the 100th day. In the past decade, sessions have ranged from 81 days to 151, for an average of 117 days. That being said, the next major deadline is day 120, when per diem payments to lawmakers drop considerably.

Of the 1,708 bills introduced this session, the AZ Legislature has now passed 252 bills with the Governor signing 189 and vetoing 0.

Legislative activity at the Capitol is focused on the budget, which is a requirement to be passed in order for the session to adjourn (sine die). The budget process continues to be stalled due to a number of key spending issues, including the size and scope of a proposed legislative tax cut package of $1 billion over 3 years. Please review February's newsletter for budget details:

- The recent stimulus from the federal government cannot be used to reduce taxes directly or indirectly. Tax cuts may be implemented so long as the state can show that the cuts are independent of the federal aid. Additionally, Senator Kelly Townsend (R-Gilbert) is now reportedly off the budget until the Maricopa County 2020 election audit is completed. That audit could take several weeks.

- Senator Townsend recently voted against **SB 1485 Early Voting List; Eligibility** causing it to fail in the Senate 14-16 April 22, 2021. Townsend voted no on the bill out of protest for the bill's sponsor, Senator Michelle Ugenti-Rita (R-Scottsdale), for not hearing any of her election reform bills in her Senate Government Committee this session. Ironically, many of Senator Townsend's election reform bills were flagged by various groups and members of the business community as some of the more controversial election bills of the session.

Legislative Bill Tracking

Health Insurance

HB 2119 Health Care Insurance; Amendments (*Bolick*) and **SB 1075 Health Care Insurance; Amendments (*Livingston*): HB 2119** Signed by the Governor 2/18. HB 2119 cleans up and modernizes various health insurance provisions. Additionally, the bill applies the holding company act to Blue Cross Blue Shield of AZ. HB 2119 also add BCBS to the PPO provision concerning assignment of benefits.

HB 2454 Telehealth; Health Care Providers; Requirements (*Cobb*): HB 2454 passed out of the Senate on 4/22, 26-3, and will now be sent back to the House for concurrence. The bill requires all contracts issued by specified health insurers to provide coverage for health care services that are provided through telehealth. The bill adds the definition for telehealth and establishes the Telehealth Advisory Committee on Telehealth Best Practices. While there are some lingering concerns, HB 2454 was favorably amended to clarify that there will be no payment parity for telephone only visits, unless it is for mental health issues.

HB 2621 Prior Authorization; Uniform Request forms *(Shah)*: Signed by the Governor 3/24**.** By January 1, 2022, the Department of Insurance and Financial Institutions is required to approve a uniform prior authorization request form for prescription drugs, devices or durable medical equipment and a uniform prior authorization request form for all other health care procedures, treatments and services. By January 1, 2023, all providers are required to use only the forms and all health care services plans and utilization review agents must accept, and process prior authorization requests submitted using the forms.

HB 2795 Insurance: Implementation credits; Exceptions *(Kaiser)*: Signed by the Governor 4/1. Disability insurers and service corporations are authorized to pay implementation credits to offset expenses that a group policyholder or employer incurs in specified circumstances in the same manner as life insurers.

SB 1011 Maternal Mental Health; Advisory Committee (*Mesnard*): Signed by the Governor 3/18. Establishes a 21-member Maternal Mental Health Advisory Committee to recommend improvements for screening and treating maternal mental health disorders. The Committee is required to submit a report of its recommendations to the Governor and the Legislature by December 31, 2022, and self-repeals July 1, 2023.

SB 1270 Insurance; Prescription Drugs; Step Therapy (*Barto*): SB 1270 has been identified as a “money bill” and it was skipped over on the 3rd Read calendar week of 4/5. While it is expected to eventually pass, it won’t be moving until the budget is resolved. SB 1270 outlines requirements for health care insurers (insurers) that implement a step therapy protocol for prescription drugs. SB 1270 requires insurers to provide a process for step therapy exemption requests and sets deadlines for request responses.

SB 1377 Civil Liability; Public Health Pandemic (*Leach*): Signed by the Governor 4/5. This bill states if the Governor declares a state of emergency for a public health pandemic, a person or "provider" (defined) that acts in good faith to protect a person or the public from injury from the pandemic is not liable for damages in any civil action for any injury, death or loss to person or property that is based on a claim that the person or provider failed to protect the person or the public from the effects of the pandemic, unless it is proven by clear and convincing evidence that the person or provider failed to act or acted with willful misconduct or gross negligence.

Fiduciary Breach

This isn’t generally new, however with the ever-increasing market share of self-funding, I thought this would be a good reminder to all in this line of business.

A federal district court in the Western District of Virginia has held, in ***Hammer v. Johnson Senior Ctr*. 11/2020**, the fiduciary for a welfare plan violated its duties of loyalty, care and prudence by misusing a health plan participant's premium payment to pay operating expenses of the employer.

This may seem obvious, especially in this case where the policy was lapsed, and the participant incurred $286,000 in unpaid medical expenses. In reviewing with an attorney friend of mine, it's the detail we felt worth reviewing.

- According to the DOL, a welfare plan fiduciary's primary responsibility is to operate the plan solely in the interest of participants and beneficiaries, and for the exclusive purpose of providing benefits and paying expenses.

- Amounts contributed by employees for health coverage under an ERISA welfare plan are deemed plan assets subject to ERISA's fiduciary rules. When an employer takes custody of plan participants' contributions, additional compliance obligations apply, and special considerations must be observed in handling the funds.

- ERISA generally requires that all plan assets be held in trust unless an exemption applies. In general, DOL regulations require employers to deposit employee contributions for a welfare plan in a trust or pay them to an insurer within a maximum of 90 days after the employer receives the employee contributions or 90 days from the date on which the contributions would otherwise have been payable to the participant.

- DOL has stated, however, this 90-day deadline is not a safe harbor. Rather, employers must deposit employee contributions "on the earliest date on which they can reasonably be segregated from the employer's general assets.

Questions:

- Are your plan sponsors funding into a trust on a timely basis?

    - If they are in a re-imbursement model, as example a level funded plan, I would wager they are as cash flow can identify the employee share of the contribution as it is being deposited to the carrier.

    - If they are paying claims directly from general assets as incurred, what steps are they taking to track the employee contributions to ensure they are being treated as plan assets?

Take a minute to review with your plan sponsors. If an agency comes knocking, I wager they are going to ask.

PS. This defendant was named a functional fiduciary which creates personal liability for damages.

TTFN.

If you have any questions please let us know:

2020-2021 AAHU Legislative Co-Chairs

Peter Rowe* and *Jennifer Farrell

Upcoming Events

All Future Monthly Events Have Been Moved to Virtual Environment.

Look for GPAHU and SAAHU Announcements for Dates, Time and to Register- or also check local Websites:

Explore SAAHU

Explore GPAHU

AAHU MEMBERSHIP

Membership is the lifeblood of any organization, the National Association of Health Underwrites is no exception.

AAHU is pleased to recognize our newest Arizona NAHU members;

- **Greater Phoenix**
  - Rosanna Belling
  - MacKenzie Bowlin
  - James De La Torre, CRPC
  - Jennifer Kush
  - Rhyan Messmer
  - Anthony Quintana

- Nicholas Seed
- Amy Shuckhart
- Eric Skartveit, MBA
- Mark Stiles

- **Southern Arizona**
    - Cameron Bishop
    - Scott Martin, CEBS
    -

Charlene Hogeland
2020-2021 Membership Chair

HUPAC
Health Underwriters
POLITICAL ACTION COMMITTEE

How Does HUPAC Make a Different?

HUPAC allows NAHU members to combine their resources and strength to make a difference where it will have the greatest impact for our colleagues, our clients and, above all, our country. It is imperative that NAHU members work together to counteract the strong and united forces of special-interest groups that oppose the free enterprise system of health care.

There's no better time to become a HUPAC contributor with the upcoming elections.

Monthly contribution levels starting at $12 a month Donate Here, click donate to start contributions. Not sure if you have donated or not, contact Andrea today for help.

Lori Crandall
2020-2021 AAHU HUPAC Chair

Is 2021 your year to earn a designation?

Enroll in the NAHU Registered Employee Benefits Consultant (REBC) designation - the most prestigious program in the employee benefits industry.

REBC has newly revised requirements and for those of you that have already been earning NAHU certifications, you may be closer to earning your REBC designation, than you think.

Earning the Registered Employee Benefits Consultant (REBC) designation elevates your credibility as a professional. The field of employee benefits continues to evolve rapidly. A year does not go by without new government regulations, new or modified coverages, and new techniques for controlling benefit costs. To best serve their clients, professionals need to have a current understanding of the provisions, advantages, and limitations associated with each type of benefit or program as a method for meeting economic security. The designation program analyzes group benefits with respect to the ACA environment, contract provisions, marketing, underwriting, rate making, plan design, cost containment, and alternative funding methods. The largest portion of this course is devoted to group medical expense plans that are a major concern to employers, as well as to employees. The remainder of course requirements include electives on topics serving various markets based on a broker's client needs.

NAHU's REBC program helps you:

- **Master the regulations and methodologies governing benefits management**
- **Understand the main features of commonly provided group insurance plans**

- **Develop a keen grasp of the latest federal healthcare laws and how clients can most effectively comply with them**
- **Adhere to industry-leading ethical business practices**

For more information click HERE!

Did you know NAHU has a Podcast?

The Healthcare Happy Hour podcast provides an in-depth review of the most recent trends in the health insurance industry as well as any actions being taken by Congress and the Trump Administration. The podcast is posted every Friday on iTunes, Spotify and Stitcher. If people like what they hear, they can share the podcast with friends and clients.
Please subscribe and listen today!

Make sure to register for NAHU's podcasts on Stitcher or iTunes.

Look for information on 2021 Sponsorship Opportunities

AAHU 2020 Sponsors

PLATINUM- CARRIER SPONSORS

GOLD- CARRIER SPONSORS

SILVER- CARRIER SPONSORS

GOLD- TPA/ANCILLARY/GA SPONSORS

SILVER- TPA/ANCILLARY/GA SPONSORS

BRONZE- TPA/ANCILLARY/GA SPONSORS

Thank you again for your membership and participation in your professional association.

Your AAHU Communication Chair

Please note: The non-deductible portion the annual dues for 2020 will be 37% of the State dues.

AAHU Annual Budget and Financials are available upon request

Be sure to visit us at

Explore Azahu

Arizona Association of Health Underwriters
Chandler, AZ 85244-1104
PO Box 1104
(602) 864 5616

Connect With Us