The Employee Retirement Income Security Act (ERISA)

The Employee Retirement Income Security Act of 1974 (ERISA) is located at 29 U.S.C. § 1001 et seq. with corresponding regulations at 29 C.F.R. Part 2509 et seq. ERISA is a federal law that sets standards of protection for individuals in most voluntarily established, private-sector employee benefit plans.

## Purpose of ERISA

ERISA was intended to:

- Protect the rights of employees and beneficiaries in employee benefit plans.
- Require employers and their representatives to meet certain standards of conduct.
- Require employer reporting to the federal government and disclosures to participants.

ERISA is a labor statute and a tax statute that applies to private employers of all sizes. It allows for the delivery of both pension and welfare benefits with preferred tax treatment. Most of ERISA's significant regulations only apply to pension and profit sharing plans. The law:

- Requires plans to provide participants with plan information, including important facts about plan features and funding.
- Sets minimum standards for participation, vesting, benefit accrual, and funding.
- Rejects prohibited discrimination against or interference with an employee concerning entitlement to benefits.
- Provides fiduciary responsibilities for those who manage and control plan assets.
- Requires plans to establish claims and appeals processes for eligible participants to receive benefits.
- Sets standards for benefit plans to qualify for favorable tax treatment.
- Gives participants the right to sue for benefits and breaches of fiduciary duty.
- If a defined benefit plan is terminated, guarantees payment of certain benefits through a federally chartered corporation, the Pension Benefit Guaranty Corporation (PBGC).

ERISA **does not** require any employer to establish a plan; however, employers who establish plans must meet certain minimum standards.

The administration of ERISA is divided among the U.S. Department of Labor, the Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC). Title I of ERISA, which contains rules for reporting and disclosure, vesting, participation, funding, fiduciary conduct, and civil enforcement, is administered by the U.S. Department of Labor. Title II of ERISA, which amended the Internal Revenue Code to parallel many of the Title I rules, is administered by the IRS. Title III is concerned with jurisdictional matters and with coordination of enforcement and regulatory activities by the U.S. Department of Labor and the IRS. Title IV covers the insurance of defined benefit pension plans and is administered by the PBGC.

## Coverage

ERISA applies to most private employers, including for-profit and nonprofit organizations, regardless of size. ERISA generally applies to all benefit plans sponsored by private employers or employee organizations (e.g., labor unions), including self-insured and fully insured plans, so long as the plan is providing retirement benefits, health care, or other ERISA-listed benefits.

The following plans are subject to ERISA:

- Defined benefit pension plans.
- Defined contribution pension plans.
- Group health and medical insurance (PPO, HDHP, HMO, POS, etc.).
- Dental and vision plans.
- Health Flexible Spending Accounts (FSAs).
- Health Reimbursement Accounts (HRAs).
- Prescription drug plans.
- Disability plans.
- Life and accident insurance plans.
- Wellness Programs*.
- Employee Assistance Programs (EAPs)*.

*Wellness programs and EAPs are covered by ERISA if they provide medical care.

## Exemptions

As a general rule, ERISA does not cover group health plans established or maintained by governmental entities, churches for their employees, or plans which are maintained solely to comply with applicable workers' compensation, unemployment, or disability laws. In addition, ERISA does not cover plans maintained outside the United States primarily for the benefit of nonresident aliens, or unfunded excess benefit plans.

The following plans are not covered by ERISA:

- Government plans (federal, state, city, school district, etc.).
- Church plans (unless the plan elects to be covered under ERISA).
- Workers' compensation, unemployment insurance, or statutory disability benefit plans.
- Health Savings Accounts (HSAs).
- Section 125 premium-only plans.
- Plans maintained outside the U.S. for nonresident alien employees.
- Voluntary plans.
- Benefits funded through payroll practice.

## Voluntary Plan Safe Harbor

Certain voluntary insurance plans may be exempt from ERISA. To be considered exempt under ERISA's voluntary plan safe harbor, all of the following requirements must be met:

- The plan must be completely voluntary.
- The plan must not allow employer contributions.
- The plan must not allow the employer to endorse the plan.
- The plan must not allow the employer to receive any consideration (other than reimbursement of administrative expenses).

## Payroll Practice Exception

Under the payroll practice exception, certain benefits payments are exempt from ERISA if they are paid solely out of the employer's general assets. These benefits include overtime pay, unfunded sick pay, paid medical leave, and income replacement benefits, including short-term disability or salary continuation plans.

# ERISA Requirements

ERISA sets uniform minimum standards to ensure that employee benefit plans are established and maintained in a fair and financially sound manner. Additionally, employers have an obligation to provide promised benefits and satisfy ERISA's requirements for managing and administering private retirement and welfare plans.

Title I of ERISA requires persons and entities that manage and control plan funds to:

- Manage plans for the exclusive benefit of participants and beneficiaries.
- Carry out their duties in a prudent manner and refrain from conflict of interest transactions expressly prohibited by law.
- Comply with limitations on certain plans' investments in employer securities and properties.
- Fund benefits in accordance with the law and plan rules.
- Report and disclose information on the operations and financial condition of plans to the government and participants.
- Provide documents required in the conduct of investigations to ensure compliance with the law.

Plans covered by ERISA are subject to some or all of the following requirements:

- Written Plan Documents.
- Summary Plan Description (SPD).
- Summary of Material Modification (SMM).
- Form 5500.
- Form 5500-SF.
- Summary of Annual Report (SAR).
- Fiduciary Standards.
- Prohibited Transactions and Exceptions.

## Written Plan Documents

The administrator of an employee benefit plan is the individual or entity specifically designated in the plan documents as the administrator. If the plan documents do not designate an administrator, the administrator is the employer maintaining the plan, or, in the case of a plan maintained by more than one employer, the association, committee, joint board of trustees, or similar group representing the parties maintaining the plan.

ERISA requires plan administrators to provide plan participants notification in writing of the most important facts about their retirement and health benefit plans including plan rules, financial information, and documents on the operation and management of the plan. Some of these facts must be provided to participants regularly and automatically by the plan administrator, while others are available upon request, free-of-charge or for copying fees. The request should be made in writing.

**Warning:** A Certificate of Coverage (COC) is a document provided by the insurance company that describes a covered person's coverage benefits, limitations, and exclusions. These documents may not meet the requirements of ERISA for plan documents.

Options for plan documents include:

- Wrap-Around Plan Document creating a combined plan for all insured benefits incorporating the COC as part of the SPD. A Wrap Document is a document that "wraps" around the insurance policy, certificate, or booklet so that the plan sponsor complies with ERISA. The plan benefits continue to be

governed by the insurance policy, certificate, or booklet, but the Wrap Document supplements that information so that the combined documents comply with ERISA.
- Individual Plan with separate Plan Document and separate SPD for each benefit.
- Umbrella Plan combining all welfare benefits into a single plan with separately bundled or individual SPDs.

## Summary Plan Description (SPD)

The Summary Plan Description (SPD) is the primary vehicle for informing participants and beneficiaries about their plan and how it operates. This SPD is separate and distinct from the Plan Document. It must be written for the average participant and be sufficiently comprehensive to apprise covered persons of their benefits, rights, and obligations under the plan.

## SPD Requirements

The style, format, and content requirements of the SPD are outlined in 29 C.F.R. §§ 2520.102-2 and 2520.102-3. Information required in the SPD includes:

- The plan name.
- The plan sponsor/employer's name and address.
- The plan sponsor's federal Employer Identification Number (EIN).
- The plan administrator's name, address, and phone number.
- Designation of any named fiduciaries, if other than the plan administrator (such as claim fiduciary).
- The plan number for ERISA Form 5500 purposes (501, 502, 503, etc.). **Note:** Each ERISA plan should be assigned a unique number that is not used more than once.
- Type of plan or brief description of benefits (life, medical, dental, disability, etc.).
- The date of the end of the plan year for maintaining plan's fiscal records (note that this may be different than the insurance policy year).
- Each trustee's name, title, and address of principal place of business, if the plan has a trust.
- The name and address of the plan's agent for service of legal process, along with a statement that service may be made on a plan trustee or administrator.
- The type of plan administration (administered by contract, insurer, or sponsor).
- Eligibility terms, such as classes of eligible employees, employment waiting period, and hours per week. and the effective date of participation, such as next day or first of month following satisfaction of eligibility waiting period.
- How insurer refunds (such as dividends, demutualization, and medical loss ratio (MLR) refunds) are allocated to participants.
- Plan sponsor's amendment and termination rights and procedures, and what happens to plan assets, if any, in the event of plan termination.
- Summary of any plan provisions governing the benefits, rights, and obligations of participants under the plan on termination or amendment of plan or elimination of benefits.
- Summary of any plan provisions governing the allocation and disposition of assets upon plan termination.
- Claims procedures, which may be furnished separately in a Certificate of Coverage (COC), provided that the SPD explains that claims procedures are furnished automatically, without charge, in the separate document, and time limits for lawsuits, if the plan imposes them.
- A statement clearly identifying circumstances that may result in loss or denial of benefits (subrogation, Coordination of Benefits, and offset provisions).
- The standard of review for benefit decisions.
- ERISA model statement of participants' rights.
- The sources of plan contributions, whether from employer and/or employee contributions, and the

method by which they are calculated.
- Interim Summary of Material Modifications (SMMs) since SPD was adopted or last restated.
- The fact that the employer is a participating employer or a member of a controlled group.
- Whether the plan is maintained pursuant to one or more collective-bargaining agreements, and that a copy of the agreement may be obtained upon request.
- A prominent offer of assistance in a non-English language (depending on the number of participants who are literate in the same non-English language).
- Identity of insurer(s), if any.
- Additional requirements for group health plan SPDs, such as:
  - Detailed description of plan provisions and exclusions (such as co-pays, deductibles, co-insurance, eligible expenses, network provider provisions, prior authorization and utilization review requirements, dollar limits, day limits, visit limits, and the extent to which new drugs, preventive care, and medical tests and devices are covered). A link to network providers should also be provided, and plan limits, exceptions, and restrictions must be conspicuous.
  - Information regarding COBRA, HIPAA, and other federal mandates such as Women's Health Cancer Rights Act, pre-existing condition exclusion, special enrollment rules, mental health parity, coverage for adopted children, qualified medical support orders, and minimum hospital stays following childbirth.
  - Name and address of health insurer(s), if any.
  - Description of the role of health insurers (such as, whether the plan is insured by an insurance company or the insurance company is merely providing administrative services).

## Summary of Material Modification

Any change to a plan that materially affects the design or administration must be reported to plan participants in a Summary of Material Modifications (SMM). The SMM must be distributed within 210 days after the end of the plan year in which the modification took place. If the modification is any material reduction in services or benefits, the SMM must be distributed to all plan participants within 60 days of the date the change is made.

A reduction in covered services or benefits generally will include any plan modification or change that:

- Eliminates benefits payable under the plan.
- Reduces benefits payable under the plan.
- Increases premiums, deductibles, co-insurance, co-payments or other amounts to be paid by a participant or beneficiary.
- Reduces the service area covered by a health maintenance organization.
- Establishes new conditions or requirements (e.g., preauthorization requirements) to obtaining services or benefits under the plan.

Modifications to a plan also require updating SPDs and other plan documents. The SMM gives the participants an interim statement of the changes to the plan before a new SPD can be issued.

## Form 5500

The Department of Labor, Internal Revenue Service, and the Pension Benefit Guaranty Corporation jointly developed the Form 5500 Series so employee benefit plans could utilize the forms to satisfy annual reporting requirements under Title I and Title IV of ERISA and under the Internal Revenue Code. Certain plans are also required to submit an accountant's report. Plan sponsors must generally file the forms on the last day of the seventh month after their plan year ends. Form 5558 may be used to request a two and one-half month extension of the Form 5500 filing due date.

All Form 5500 *Annual Return/Report of Employee Benefit Plan*, all Form 5500-SF *Short Form Annual Return/Report of Small Employee Benefit Plan*, and any required schedules and attachments, must be completed and filed electronically using EFAST2-approved third-party software or using IFILE.

Plan administrators should review the *Reporting and Disclosure Guide*, published by the Department of Labor, for more detailed information regarding filing Form 5500.

## Summary Annual Report

Defined contribution retirement plan and welfare plan administrators must annually provide a Summary Annual Report (SAR), which is a narrative summary of the Form 5000 to participants and beneficiaries.

## Fiduciary Standards

Part 4 of Title I sets forth standards and rules for the conduct of plan fiduciaries. Persons who exercise discretionary authority or control over management of a plan or disposition of its assets are ***fiduciaries*** for purposes of Title I of ERISA. Fiduciary status is based on the functions performed for the plan, not just a person's title.

A plan's fiduciaries ordinarily include the trustee, any investment advisers, all individuals exercising discretion in the administration of the plan, all members of a plan's administrative committee (if it has such a committee), and those who select committee officials. Attorneys, accountants, and actuaries generally are not fiduciaries when acting solely in their professional capacities. The key to determining whether an individual or an entity is a fiduciary is whether they are exercising discretion or control over the plan.

Fiduciaries are required to discharge their duties solely in the interest of plan participants and beneficiaries and for the exclusive purpose of providing benefits and defraying reasonable expenses of administering the plan. In discharging their duties, fiduciaries must act prudently and in accordance with documents governing the plan, to the extent such documents are consistent with ERISA.

Section 404(a)(1)(B) of ERISA contains what may be referred to as the "Prudent Expert Standard." Requiring the fiduciary act with the prudence of one "familiar with such matters" creates a distinction from the general prudent person standard. When selecting advisors, employers must demonstrate due diligence in establishing that such advisors meet this standard.

The Department of Labor has taken the position that there is a class of activities which relates to the formation, rather than the management, of plans. These activities, generally referred to as ***settlor functions***, include decisions relating to the formation, design and termination of plans and, except in the context of multi-employer plans, generally are not activities subject to Title I of ERISA. The Department of Labor also has taken the position that, while expenses attendant to settlor activities do not constitute reasonable plan expenses, expenses incurred in connection with the implementation of settlor decisions may constitute reasonable expenses of the plan.

Settlor functions are different from fiduciary functions. An employer, or the management of a sponsoring entity, engages in necessary settlor functions when establishing a plan, choosing plan design, and amending or terminating a plan. Such business decisions do impact an employee benefits plan; nonetheless, these settlor functions are not governed by the fiduciary duty provisions of ERISA.

## Prohibited Transaction Exemption Procedures

In order to avoid confusion over dual jurisdiction between the Department of Labor and IRS, Reorganization Plan No. 4 of 1978 transferred the authority to grant exemptions from the prohibited transaction provisions under the Internal Revenue Code to the Department of Labor. As a result, the Department of Labor has the exclusive authority to issue prohibited transaction exemptions (PTEs) involving plans that are:

- Covered solely under Title I of ERISA (welfare benefit plans such as group health plans).
- Covered solely under Title II of ERISA (plans without employees such as nonemployer sponsored IRAs and Keoghs).
- Covered under both Titles I and II of ERISA (pension and individual account plans such as 401(k) plans).

## Prohibited Transactions

Prohibited transaction provisions prohibit fiduciaries from causing a plan to engage in certain types of transactions with persons referred to as "parties in interest" under Title I of ERISA or "disqualified persons" under the Internal Revenue Code. The purpose of the prohibited transaction rules is to prevent dealings with parties who may be in a position to exercise improper influence over plan assets, and to prevent plan fiduciaries from taking actions with respect to a plan which involves self-dealing and conflicts of interest.

There are two categories of prohibited transactions. The first category deals with transactions between the plan and a party in interest with respect to the plan. Specifically, for these transactions a plan fiduciary may not cause a plan to enter into a transaction which directly or indirectly constitutes any of the following:

- A sale, exchange, or leasing of property.
- A loan or other extension of credit.
- A provision of goods, services, or facilities.
- A transfer or use of the income or the assets of the plan.
- An acquisition and holding of employer securities or employer real property that does not meet certain conditions.

The second category of prohibited transactions describes situations involving fiduciary self-dealing and conflicts of interest. For example, a violation may occur where a plan fiduciary causes a plan to engage in transactions that may benefit that plan fiduciary or a person or entity in which the fiduciary has a financial interest. This second category also applies where a fiduciary acts on behalf of a party or represents a party whose interests are adverse to the interests of the plan.

## Party in Interest/Disqualified Person

***Parties in interest/disqualified persons*** are individuals or entities that have defined relationships to a plan. They include a person providing services to the plan (such as attorneys, accountants, or third-party administrators), an employer or union whose employees or members participate in the plan, and plan fiduciaries.

It is important to note that there are some differences between these two terms under ERISA and the Internal Revenue Code. For example, the definition of "party in interest" in ERISA includes, among other categories, employees of a plan sponsor, while the corresponding term in the Internal Revenue Code — "disqualified person" — includes only certain highly-compensated employees.

### *Exemptions*

There are a number of exemptions allowing plans to conduct transactions necessary for plan operation, but that are otherwise prohibited. Exemptions may be categorized as **statutory exemptions** or **administrative exemptions**.

A statutory exemption may be relied upon provided that the conditions of the exemption are met. One exemption in the law allows a plan to hire a service provider as long as the services are necessary to operate the plan and the contract or arrangement under which the services are provided and the compensation paid for those services is reasonable. The law provides exemptions for many plan dealings with banks, insurance companies, and other financial institutions that are essential to the ongoing operations of the plan. Another exemption permits plans to offer loans to participants. To the extent that a transaction is permitted by a statutory exemption, the parties would not need to request an administrative exemption for the same transaction from the Department of Labor.

The department may grant additional exemptions. The exemptions issued by the department can involve transactions available to a class of plans or to one specific plan.

The Department of Labor has the authority to grant administrative exemptions from the prohibited transaction provisions of ERISA and the Internal Revenue Code for a class of transactions or for individual transactions. In order to grant an administrative exemption, the department must make three determinations:

1. The exemption must be administratively feasible;
2. In the interest of the plan and its participants and beneficiaries; and
3. Protective of the rights of plan participants and beneficiaries.

Prior to granting an exemption, the department must publish a notice of proposed exemption in the Federal Register so that interested persons are given the opportunity to comment on the proposal. If the transaction involves potential fiduciary self-dealing or conflicts of interest, an opportunity for a public hearing also must be provided. The exemption procedures are designed to ensure that the department is provided with all the relevant materials that are necessary to accurately and promptly decide whether or not an exemption should be proposed.

A class exemption may provide exemptive relief from the prohibited transaction provisions in ERISA or the Internal Revenue Code, or both, to an identified class of entities or individuals who engage in the transaction(s) described in the exemption and who also satisfy the conditions contained in the exemption.

In 1996, the department published a class exemption PTE 96-62, commonly referred to as EXPRO. The EXPRO exemption is available for a class of prospective transactions which meet the conditions contained in PTE 96-62 as well as the authorization requirements described therein. If the conditions and authorization procedures are met, an applicant may be able to obtain individual prohibited transaction relief on an expedited basis.

Individual exemptions involve case-by-case determinations as to whether the specific facts represented by an applicant concerning a specific transaction (as well as the conditions applicable to such a transaction) support a finding by the department that the requirements for relief from the prohibited transaction provisions of ERISA and the Internal Revenue Code have been satisfied. Unlike a class exemption, an individual exemption may be relied upon only by the specific parties in interest named or otherwise identified in the exemption. Parties in interest or disqualified persons that are unable to meet the conditions of a class exemption also may request an individual exemption. A list

summarizing the department's most recent individual exemptions is located at www.dol.gov/ebsa/regs/ind_exemptionsmain.html on EBSA's website.

## Disclosure and Reporting Requirements

ERISA notice requirements are outlined at 29 U.S.C. § 1021.

Both pension and welfare benefit plans are required to meet extensive disclosure and reporting requirements under ERISA. Plan administrators should review the *Reporting and Disclosure Guide*, published by the Department of Labor, for more detailed information regarding current reporting requirements.

## Posting Requirements

ERISA has no posting requirements.

## Recordkeeping Requirements

Section 107 of ERISA (29 U.S.C. § 1027) requires anyone who files an employee benefit plan report (i.e., Form 5500) to maintain sufficient records to support all information included on the report for at least six years from the date the report is filed. Plan sponsors must generally file Form 5500 on the last day of the seventh month after their plan year ends. Typically, employers with less than 100 participants in a welfare plan at the beginning of the year do not file Form 5500 for the welfare plan for that year.

However, Section 209 of ERISA (29 U.S.C. § 1059) contains a much broader and open-ended recordkeeping requirement. Section 209 requires employers to maintain all records necessary to determine benefits that are or may become due to each employee.

Records that should be maintained include, but are not limited to, the following:

- Plan documents, including amendments.
- IRS determination letters.
- SPDs and SMMs.
- Participant benefit statements.
- Company resolutions declaring match and/or profit sharing contributions.
- Participant notices.
- Form 5500 (including all required schedules and attachments).
- Actuarial statements and valuations.
- Age and service records that are used to determine waiting periods, eligibility, vesting, breaks in service, and benefits.
- Payroll records.

## Enforcement

The administration of ERISA is divided among the U.S. Department of Labor, the Internal Revenue Service of the Department of the Treasury (IRS), and the Pension Benefit Guaranty Corporation (PBGC). Title I of ERISA, which contains rules for reporting and disclosure, vesting, participation, funding, fiduciary conduct, and civil enforcement, is administered by the U.S. Department of Labor. Title II of ERISA, which amended the Internal Revenue Code to parallel many of the Title I rules, is administered by the IRS. Title III is concerned with jurisdictional matters and with coordination of

enforcement and regulatory activities by the U.S. Department of Labor and the IRS. Title IV covers the insurance of defined benefit pension plans and is administered by the PBGC.

ERISA confers substantial law enforcement responsibilities on the Department of Labor. The department has the authority to bring a civil action to correct violations of the law, provides investigative authority to determine whether any person has violated Title I (Protection of Employee Rights), and imposes criminal penalties on any person who willfully violates any provision of Part 1 of Title I.

The Employee Benefits Security Administration (EBSA) has the authority to assess civil penalties for reporting violations. A penalty of up to $2,063 per day may be assessed against plan administrators who fail or refuse to comply with annual reporting requirements. Section 502(i) gives the agency authority to assess civil penalties against parties in interest who engage in prohibited transactions with welfare and nonqualified retirement plans. The penalty can range from 5 – 100 percent of the amount involved in a transaction.

A parallel provision of the Internal Revenue Code directly imposes an excise tax against disqualified persons, including employee benefit plan sponsors and service providers, who engage in prohibited transactions with tax-qualified retirement plans.

Finally, § 502(l) requires the Department of Labor to assess mandatory civil penalties equal to 20 percent of any amount recovered with respect to fiduciary breaches resulting from either a settlement agreement with the Department of Labor or a court order as the result of a lawsuit by the Department of Labor.

## Interaction with Other Laws

Part 5 of Title I states that the provisions of ERISA Titles I and IV supersede state and local laws which “relate to” an employee benefit plan. ERISA, however, does not pre-empt certain state and local laws, including state insurance regulation of multiple employer welfare arrangements (MEWAs). MEWAs generally constitute employee welfare benefit plans or other arrangements providing welfare benefits to employees of more than one employer, not pursuant to a collective-bargaining agreement.

In addition, ERISA’s general prohibitions against assignment or alienation of retirement benefits do not apply to qualified domestic relations orders. Plan administrators must comply with the terms of qualifying orders made pursuant to state domestic relations laws that award all or part of a participant’s benefit in the form of child support, alimony, or marital property rights to an alternative payee (spouse, former spouse, child, or other dependent). Finally, group health plans covered by ERISA must provide benefits in accordance with the requirements of qualified medical child support orders issued under state domestic relations laws.

Important legislation has amended ERISA and increased the responsibilities of the Department of Labor’s Employee Benefits Security Administration (EBSA). For example, the Retirement Equity Act of 1984 reduced the maximum age that an employer may require for participation in a retirement plan, lengthened the period of time a participant could be absent from work without losing credit towards the plan’s vesting rules for pre-break years of service, and created spousal rights to retirement benefits through qualified domestic relations orders (QDROs) in the event of divorce, and through pre-retirement survivor annuities.

The Omnibus Budget Reconciliation Act of 1986 eliminated the ability of employers to limit participation in their retirement plans for new employees who are close to retirement and the ability to freeze benefits for participants over age 65.

The Omnibus Budget Reconciliation Act of 1989 requires the Secretary of Labor to assess a civil penalty equal to 20 percent of any amount recovered for violations of fiduciary responsibility.

The Pension Protection Act of 2006 made many changes to ERISA, including expanding the availability of fiduciary investment advice to participants in 401(k)-type plans and individual retirement accounts (IRAs), removing impediments to automatic enrollment through qualified default investment alternatives, and increasing the transparency of pension plan funding through new notice requirements.

The Department of Labor's responsibilities under ERISA have also been expanded by health care legislation. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) added a new Part 6 to Title I of ERISA, which provides for the continuation of health care coverage for employees and their beneficiaries (for a limited period of time) if certain events would otherwise result in a reduction in benefits.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) added a new Part 7 to Title I of ERISA aimed at making health care coverage more portable and secure for employees, and gave the Department of Labor broad additional responsibilities with respect to private health plans.

These responsibilities were increased further with the enactment of the Newborns' and Mothers' Health Protection Act of 1996, the Mental Health Parity Act of 1996, the Women's Health and Cancer Rights Act of 1998, the Genetic Information Nondiscrimination Act of 2008, the Mental Health Parity and Addiction Equity Act of 2008, and the Children's Health Insurance Program Reauthorization Act.

Most recently, the 2010 passage of the Patient Protection and Affordable Care Act (ACA) brought widespread health care reform. In addition to the ACA's market reform provisions, significant changes impact dependent coverage, lifetime and annual benefit limits, coverage of preventative services, elimination of pre-existing condition exclusions, disclosures to plan participants, claims procedures and external review, and many other areas. The ACA also provided EBSA with additional enforcement authority to protect workers and employers whose health benefits are provided MEWAs. As the ACA phases in full implementation, EBSA and the Department of Health and Human Services, the Department of the Treasury, and the Internal Revenue Service continue to issue guidance on the many provisions of this law.

## Contact Information

**Employee Benefits Security Administration**
www.dol.gov/ebsa

**Internal Revenue Service of the Department of the Treasury**
www.irs.gov

**Pension Benefit Guaranty Corporation**
www.pbgc.gov

**U.S. Department of Labor**
www.dol.gov/dol/topic/health-plans/erisa.htm