

Miller & Chevalier Webinar: Employer Pay-or-Play Provisions, New Employer Fees and Taxes, and Other PPACA Implementation Issues - Where Are We Now?

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With the U.S. Supreme Court decision and 2012 elections behind us, it appears that the Patient Protection and Affordable Care Act (PPACA) is here to stay. Several PPACA provisions are already effective, and a myriad of additional provisions are scheduled to take effect in 2013 and 2014. The federal agencies have issued a flurry of regulations and guidance in recent weeks and months, and are likely to continue to do so for the foreseeable future. Employers need to be aware of the relevant provisions, and should begin developing a strategy now - if they haven't done so already - to ensure their compliance.

During the webinar, lawyers from Miller & Chevalier's health care reform team provided a brief overview of the PPACA provisions that are already effective, or should already be implemented for 2013, and then focused on the following PPACA provisions and guidance:

- The employer pay-or-play rules under Code section 4980H, as implemented in recently-issued proposed Treasury regulations
- Two new annual fees that will begin to be imposed upon self-insured group health plans (and health insurance carriers) beginning in 2013 and 2014, respectively, to fund the federal patient-centered outcomes research institute (or "PCORI fees") and a federal transitional reinsurance program
- Updated regulations pertaining to employer-sponsored wellness programs

We also discussed various "hot topics" in PPACA-related litigation affecting employer-plan sponsors, including:

- Fiduciary issues pertaining to the new PPACA procedures for internal claims and appeals, and independent external reviews
- Fiduciary obligations in connection with medical loss ratio (MLR) rebates received for fully-insured group health plans
- Legal challenges to the provisions of the Treasury regulations that would allow individuals to obtain premium tax credits to purchase coverage through a federal (rather than state-run) exchange, and the resulting impact on employers under the pay-or-play provisions
- Legal challenges to the PPACA mandate to cover contraceptive services without cost-sharing

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