



# Human Resources Weekly Digest

## EEOC Withdraws Incentive Rules & Creates Uncertainties for Wellness Plans

"Notwithstanding its removal of the sections on incentives, the EEOC's other rules governing wellness program design under the ADA and GINA remain intact. Specifically, the ADA allows employers to conduct voluntary medical examinations and activities, including voluntary medical histories, that are part of an employee health program available to employees at the work site. Any wellness program offered must be (i) voluntary, (ii) confidential, and (iii) reasonably designed to promote health or prevent disease." [Full Article](#)

*Frost, Brown, & Todd*



## Congress & Administration Consider Significant Drug Pricing Policy Changes

"In both chambers of Congress, passing legislation to bring down drug prices is a policy priority -- and the savings from such possible legislation is slated to offset other healthcare legislative proposals (such as addressing impending Medicaid Disproportionate Share Hospital (DSH) allotment reductions). Nonetheless, gaining traction on changes designed to bring down drug pricing is proving challenging, for Congress and the administration." [Full Article](#)

*Manatt, Phelps, & Phillips*

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## Self-Insured Health Plans: Recent Trends by Firm Size, 1996-2018

"Between 2013 and 2017, the self-insurance trend for large establishments continued to decline, falling from 83.9 percent to 75.9 percent. A rebound may have started in 2018, as the percentage offering a self-insured plan increased to 78.7 percent.... Between 2017 and 2018, the percentage of enrollees fell from 59.4 percent to 58.7 percent. The percentage of workers in self-insured plans fell in every establishment size except for those in firms with 1,000 or more employees." [Full Article](#)

*Employee Benefit Research Institute*

### ACA Litigation Round-Up

"ACA cases are pending before the Supreme Court and federal appellate and district courts across the country. These cases continue even as stakeholders anxiously await a decision from the Fifth Circuit Court of Appeals on the validity of the ACA following oral arguments in early July. This post covers pending ACA litigation and provides a brief status update on lawsuits over non-ACA plans, cost-sharing reductions, and the risk adjustment program." [Full Article](#)

*Katie Keith*

### Fewer Spouses Covered on Employee Benefit Plans

"Employers often use one of the following four methods to reduce the number of spouses they cover: [1] Charging employees more to cover spouses who have access to employer-sponsored coverage through their own jobs. [2] Charging employees more to cover spouses whether or not they have access to other coverage. [3] Choosing not to cover any spouses who have access to their own employer-sponsored coverage. [4] Choosing not to offer coverage for any spouses under any circumstances." [Full Article](#)

*International Foundation of Employee Benefit Plans*



## How an Innocent ERISA Administrator Mistake Can Lead to Money Damages

"A recent decision on remand from the Court of Appeals for the Second Circuit presents a disturbingly common fact situation and legal analysis that shows, in one district judge's view, how an innocent ERISA plan administrator mistake can lead to monetary relief." [Full Article](#)

*Seyfarth Shaw LLP*