



# Human Resources Weekly Digest

## IRS Expands List of Preventive Care Benefits for HSA– Compatible Plans

"[Notice 2019-45] makes clear that only the items and services in the appendix are to be considered preventive services for chronic conditions ... Furthermore, they are only considered to be preventive services when they are prescribed for the purpose of preventing the exacerbation of the chronic condition or the development of a secondary condition. Thus, this is a limited expansion of the preventive care exception." [Full Article](#)

*Ice Miller LLP*



## What is “Function” Fiduciary?

"The appellate court made clear that a participant or beneficiary does not have to allege a plan administrator or named fiduciaries also satisfy the functional fiduciary test to assert an ERISA claim. Anyone who performs functional duties may be considered a fiduciary." [Full Article](#)

*Compliance Dashboard*

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## IRS Decreases ACA Affordability Percentage for 2020

"Employers with a low-paid workforce may have to lower their employee contributions/premiums for the lowest cost self-only health coverage option for 2020 to meet the adjusted percentage. Employers may instead increase employee compensation for these low-paid workers." [Full Article](#)

*Winston & Strawn LLP*

### IRS Slams Employers with Aggressive Penalties for Late ACA Filings

"Late last week and early this week a number of employers received a Notice 972CG from the IRS. The Notice 972CG proposes penalties under IRC section 6721 for late or incorrect filings. This article explains the Notice 972CG and the basic steps employers who receive this letter should follow." [Full Article](#)

*Accord*

### Follow the Scripts: Trends in ERISA Litigation PBMs

"Several plaintiffs' law firms believe that the manner in which pharmacy benefit managers set cost-sharing amounts and receive rebates from network pharmacies is at least partly to blame [for rising drug costs], and have filed litigation against PBMs under [ERISA] in response. This article looks at recent ERISA lawsuits filed against PBMs, the success of those claims, and some issues those litigants have encountered along the way." [Full Article](#)

*Bloomberg Law*

## AFFORDABLE CARE ACT



### Digging Into the New HRA Regulations: Expected Benefits HRAs

"Addition of the Excepted Benefit HRA gives employers the ability to offer a flexible, limited-scope HRA to employees. Although the amount available for each plan year is limited, amounts in an Excepted Benefit HRA may be rolled over and accumulated from year-to-year ... Further, employees covered by Excepted Benefit HRAs are eligible to make contributions to health savings accounts, assuming the individual does not otherwise have disqualifying coverage." [Full Article](#)

*Proskauer*