

# Weekly Digest

• July 7, 2020 •

## DOL Addresses Health Plan Coverage for Return-to-Work COVID Testing and Other Issues

"The guidance clarifies that testing conducted to 'screen for general workplace health and safety, for public health surveillance, or for any other purpose not primarily intended for individualized diagnosis or treatment' is not covered under the FFCRA/CAES Act mandate.... The [FAQs](#) suggest that plans must provide notice 'within a reasonable timeframe' in advance of any cutback to the cost-free testing at the conclusion of the emergency period unless the plan had originally notified participants of the general duration of the benefits." [Full Article](#)

*Seyfarth Shaw LLP*

## DOJ, Republican State Attorneys General Ask Supreme Court to Strike Down ACA

"The Trump administration continues to take a confusing position on standing and remedy but, in any event, argues that the entire ACA should be declared invalid. This post briefly summarizes the history of the lawsuit; the opening briefs from the respondents; and what comes next." [[California v. Texas](#), No. 19-840; [Texas v. California](#), No. 19-1019 (cert. pet. granted Mar. 2, 2020)] [Full Article](#)

*Katie Keith, in Health Affairs*

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## DOL Proposes Updates to Mental Health Parity Compliance Tool, Including Guidelines for Internal Compliance Plans

“The proposal integrates guidance and examples from agency FAQs Part 39 and revises existing examples to add an explanation of how plans and insurers can correct violations.... [T]he proposed update does not include recent guidance on the interaction of MHPAEA and COVID-19 mandated coverages[.]” [Full Article](#)

**Thomson Reuters / EBIA**



## IRS Proposes Regs on Disallowance of Employer's Deduction for Commuting Benefits

“The [proposed regulations](#) still concentrate on the disallowance of employer deductions for parking expenses, but they also address transportation in commuter highway vehicles (vanpooling) and transit benefits, and explain how certain exceptions allow some qualified transportation fringes to be deductible.” [Full Article](#)

**Thomson Reuters / EBIA**

## IRS Allows Tax-Advantaged Leave Donation to COVID-19 Relief Organizations

“[Notice 2020-46](#) provides that employees who forgo paid time off in exchange for tax deductible employer contributions made before January 1, 2021, to a charitable organization for the relief of victims of COVID-19 will not be taxed on the value of the donated leave. The employer may still deduct the contribution, but the employee may not take a charitable deduction.” [Full Article](#)

**Verrill Dana LLP**



## COBRA Notice Class Actions Increasing

“Over the past few months, there have been a slew of class action lawsuits filed against several large employers alleging technical violations of COBRA's election notice requirements and seeking penalties and damages -- even where the employer used the model COBRA election notice form provided by the [DOL].... The DOL's model COBRA election notice form requires some employer customization, and the lawsuits generally allege that employers have not been customizing the forms correctly.... The specific allegations are slightly different in each case, but all revolve around technical defects.” [Full Article](#)

**Morris, Manning & Martin, LLP**