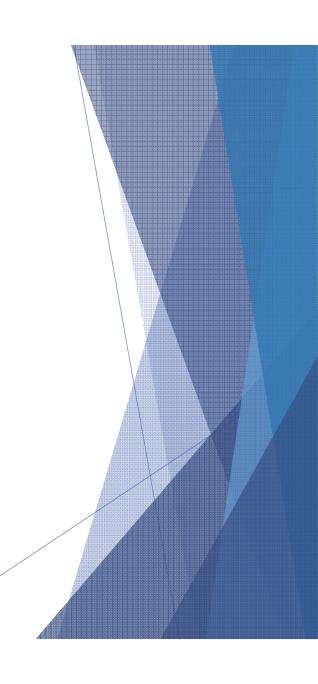


Employee Benefits Legislative & Political Update / Plan Issues

ULA Advanced ERISA Seminar June 20, 2024

Mariah Becker Director of Research & Education NCCMP 917-648-4240 mbecker@nccmp.org



Regulatory Issues—Mental Health Parity

- ► Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA)
 - Requires that if mental health / substance use disorder benefits are provided, there must be "parity" between medical/surgical benefits and mental health / substance use disorder benefits
- CAA 2021 (enacted December 2020)
 - ▶ Requires that plans perform and document comparative analyses of the design and application of nonquantitative treatment limitations (NQTLs)
 - ▶ Plans required to furnish these analyses to DOL/HHS upon request, beginning 45 days from enactment (February 10, 2021)
- Proposed rules issued August 2023—incredibly problematic for plans
 - Substantially all/predominant test
 - Meaningful benefit requirements
 - Network adequacy NQTL
 - ► Fiduciary certification



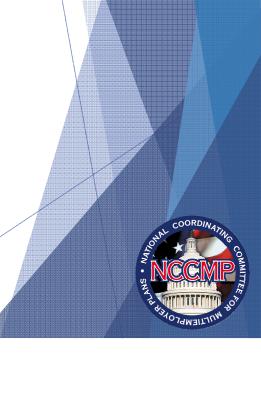
Regulatory Issues—Mental Health Parity

- Departments received over 9,500 comments
- ► Final rule released September 9, 2024 and published in the Federal Register this past Monday, September 23
 - Staggered effective dates for plan years beginning on and after 1/1/2025 or 1/1/2026
- Many changes from the proposed rule based on comments
 - Predominant/substantially all test removed for NQTLs
 - Duty to identify and remedy "material" differences in outcomes data
 - ► Meaningful benefit requirement to provide "core treatments" with respect MH/SUD benefits where medical/surgical benefits are provided
 - ► Fiduciary certification changed substantially
- ► HOWEVER—strong concerns remain with subjectivity of final rule



What to watch at the PBGC

- ► Final 4213 withdrawal liability regulations
 - ► Multiemployer Pension Plan Amendments Act of 1980 (MPPAA) offered two paths for assumption setting
 - 1. Plan actuary's best estimate of anticipated experience under plan
 - 2. Assumptions prescribed by PBGC regulation
 - Issued proposed regulations October 14, 2022
 - Proposed rule provides a range of acceptable discount rates:
 - Valuation discount rates used for minimum funding
 - ▶ PBGC annuity purchase rates
 - ► Any blend of the two
 - Range generally encompassed all current approaches plan actuaries use for determining unfunded vested liabilities
 - ▶ Included in PBGC Regulatory Agenda for October 2024
- Deva Kyle nomination for PBGC Director



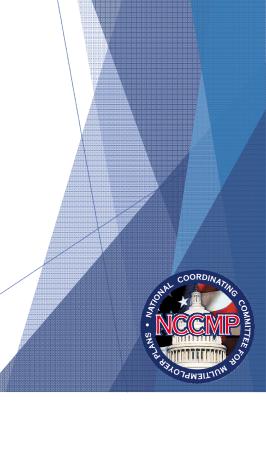
SECURE 2.0 Technical Corrections

- ▶ 2 major concerns with SECURE 2.0 for multiemployer 401(k) plans:
 - ► Roth catch-up contributions
 - ► Treasury provided 2-year administrative delay
 - ► Automatic enrollment
 - ▶ Treasury released some guidance in its grab bag but multiemployer plans with a 401(k) component established or a new multiemployer plan established after 12/29/22 would be subject to the automatic enrollment and automatic escalation requirements
- Staff released a discussion draft of technical fixes in December 2023
 - Draft exempted multis from automatic enrollment provisions, but did not go far enough
 - ▶ Roth provisions not addressed
- Revised technical package unlikely to be released before attached to a vehicle
- Timing of legislative package unclear . . . but likely end of year



Looking forward

- Split government
 - ▶ Unlikely to see major pension legislation move
 - ► Focus will remain on Committees with jurisdiction
- ▶ What about a GOP sweep?
 - ► Special financial assistance challenges
 - ► Multiemployer funding requirement challenges



Questions?

