

RISQ Review

PROPERTY & CASUALTY INSURANCE

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HR, & Compliance**

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Compliance**

Hard Property Market To Continue in 2021, With Higher Rates, New Exclusions: RPS

“The property insurance market will continue to harden through 2021, with rising exposures and reinsurance costs driving primary rates higher, according to a report from wholesale broker Risk Placement Services (RPS). RPS expects rate increases in the high-single digits to 15% range on clean accounts. Increases are expected to be higher on accounts with losses. The premium hikes are no surprise, given the effect of climate change on natural disasters and increased rebuilding costs.” [Full Article](#)

Zywave

Conventional Unemployment Insurance Does Not Work in the Gig Economy

“Like those on the opposite coast, New York courts and administrative panels have recently found that Uber drivers qualify for unemployment benefits. This is a problem. Indeed, even if the courts are right as a matter of law, what’s happening makes for bad public policy. Reaching a good solution is going to require creativity from the insurance industry.

The facts are pretty simple: unemployment insurance (UI), as we know it, is a terrible fit for those working for on-demand platforms. Such people should have a better safety net than they do now but existing UI isn’t the answer. People working for an app based on on-demand service aren’t like conventional employees of a typical firm, but they aren’t just like independent businesspeople either.” [Full Article](#)

Insurance Journal



Public Protection Classification Ratings

“Regardless of size or industry, it’s crucial for business owners to understand their commercial property’s (or properties’) fire exposures. After all, a fire has the potential to seriously damage or even destroy any type of building or structure. That’s why it’s important for your business to be aware of your community’s public protection classification (PPC) rating. This rating—which is determined by the Insurance Services Office (ISO)—represents a review of the fire protection services available for the community in which your business’s property is located. PPC ratings not only inform business owners about the quality of fire protection in their area, but they can also influence the cost of commercial insurance premiums.” [Full Article](#)

Zywave

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EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

The Doctor Will See You Now via Telemedicine and It May Qualify as Treatment under the FMLA

“As you already know, COVID-19 changed almost everything, and some of those things are likely here to stay (or at least for a while longer).” [Full Article](#)

Bradley Arant Boult Cummings LLP

The Internal Revenue Service Extends the Payment Period for Certain Deferred Employee Payroll Taxes in Accordance with Recently Enacted Legislation

“The IRS issued the Previous Notice to implement the Presidential Memorandum which directed the Secretary of the Treasury to defer the withholding and payment of certain employee payroll taxes.” [Full Article](#)

Seyfarth Shaw LLP



3 Tips to Avoid OSHA Citations Related to COVID-19

“As businesses across the country return to in-person operations, the Occupational Safety and Health Administration (OSHA) has been activity enforcing workplace safety related to COVID-19.” [Full Article](#)

Hall Benefits Law

Expense Reimbursements in the Era of Remote Working

“The COVID-19 pandemic thrust remote working upon many employers without notice or adequate time to prepare.”

[Full Article](#)

Seyfarth Shaw LLP



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EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

Economic Report Card for the ACA's Employer Mandate

“The March 2015 CBO baseline estimated \$167 billion in net revenue from the employer mandate from 2016 to 2025. CBO was off by nearly two orders of magnitude. For 2016, the CBO projected \$9 billion in revenue from the mandate penalty. The IRS reported penalties of \$420 million assessed for tax year 2016, and after dispute resolution, \$142 million collected. While complete information is still not available from the IRS for tax year 2017, preliminary data indicates a similar gap. Furthermore, the cost of enforcement is not trivial.” [Full Article](#)

The White House

State Policies to Make Health Care More Affordable During COVID-19 and Beyond

“Prior to the pandemic, some states had policies in place to control health care prices directly. With provider consolidation likely to continue in the coming months, these policies will become increasingly important to protect consumers from the effects of large price increases: [1] Policies to control prices through cost growth benchmarks; [2] Policies to limit hospital prices directly; [3] Policies to limit hospital price growth; and [4] A combined approach.” [Full Article](#)

Health Affairs Blog

Congress Requires Health Plans to Accelerate Mental Health Parity Compliance

“Section 203 of the Act parallels compliance requirements that already exist in some states and that have been urged on regulators by several prominent behavioral health advocacy groups. Nonetheless, the fact that states have already tested out these requirements does not mean plans or issuers will be able to comply with the new federal requirements easily.” [Full Article](#)

Manatt, Phelps & Phillips, LLP



Consolidated Appropriations Act, 2021: Top Practical Considerations on FSA, Election Change Relief

“Have you communicated with your administrator for the healthcare FSA and dependent care FSA to confirm their capabilities for implementing these rules? Would you permit the entire amount or some lower amount to be carried over? What impact would the carryover or grace period have on health savings account (HSA) eligibility? Are your administrators able to administer the ordering rules that enable employees to use FSA dollars from two different plan years for the entire next plan year? Have you considered the potential impact this may have on your COBRA notices? How would you communicate the changes to employees?” [Full Article](#)

Jackson Lewis P.C.

RISQ Review

EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

Fourth Circuit Speaks: To Be “Qualified” Under the ADA, Disabled Employee Must Comply with Valid Safety Requirements

“Often an employer’s valid safety requirements for a position can be at odds with a disabled employee’s request for a reasonable accommodation. A recent decision from the Fourth Circuit Court of Appeals reaffirms employers’ right to require compliance with valid safety requirements. And it serves as a helpful reminder that employers should ensure that job descriptions and safety requirements are routinely audited, to ensure they are up-to-date, accurate, and enforceable.” [Full Article](#)

Seyfarth Shaw LLP

DOL Issues Opinion Letters Regarding Pay Calculations for Teleworkers, In-Home Caregivers

“On the last day of 2020, the Wage and Hour Division of the U.S. Department of Labor (DOL) ushered out the year with two new Opinion Letters. These may be the final two Opinion Letters of the Trump Administration and perhaps the last two for a while, depending on whether the Biden Administration continues the practice, reimplemented during the current administration, or abandons it, perhaps in favor of the informal administrator interpretation letters issued during the Obama Administration.” [Full Article](#)

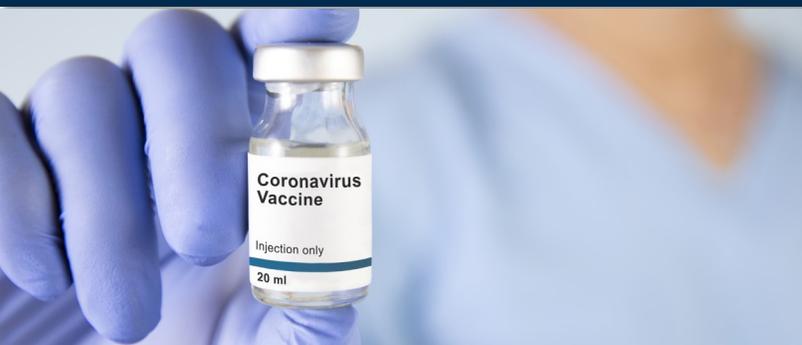
Jackson Lewis



Employers and Employees Can Contractually Agree to Shorter Claims Periods

“In *Bracey v. Lancaster Foods, LLC*, the employee signed an arbitration agreement that shortened the statute of limitations (i.e. the time within which a claim must be filed) for all employment-related claims to one year. He subsequently brought a discrimination lawsuit against his employer. The employer moved to compel arbitration, and the employee argued that the agreement was unconscionable because it shortened all the applicable statutes of limitation to one year. The Fourth Circuit rejected this argument, noting that it had previously held that parties may agree to shorten limitations period by contract, and that “[c]ourts have frequently found contractual limitations periods of one year (or less) to be reasonable.” [Full Article](#)

Shawe Rosenthal LLP



The EEOC Releases First Guidance on COVID-19 Vaccination for Employers

“More faith-based federal contractors could be shielded from anti-discrimination suits under the Department of Labor’s new rule. The rule gives organizations a clearer picture of their protections under the law. The Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) expanded a religious exemption from anti-discrimination laws for federal contractors. The new rule applies the exemption to employers that “are organized for religious purpose, hold themselves out to the public as carrying out a religious purpose, and engage in activity consistent with and in furtherance of that religious purpose.” The rule takes effect on Jan. 8, 2021.” [Full Article](#)

McDermott Will & Emery

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EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

Consolidated Appropriations Act Includes New Restrictions on Surprise Medical Bills

“Plans must include cost-sharing and contact information on any physical or electronic plan or insurance identification card issued to participants, beneficiaries, or enrollees. Plans must offer price comparison guidance by telephone and provide a price comparison tool on the website of the plan. Plans must establish a database and disclose on its website each provider and facility with which it has a contractual relationship for furnishing items or services, including contact information for each provider and facility.” [Full Article](#)

Sheppard Mullin



New Stimulus Deal Brings Additional Health Care Cost Transparency Rules

“The transparency provisions of the stimulus bill prohibit so-called gag clauses in agreements between payors and providers that aim to prevent the disclosure of certain information. In particular, group health plans and health insurers may not enter into agreements with health care providers, third-party administrators, or managers of provider networks that would restrict the plan or the insurer's ability to access and share cost or quality of care information in certain circumstances. These rules are in addition to the transparency requirements set forth in regulations issued in November establishing disclosure requirements for group health plans and health insurers related to participant cost-sharing, in-network negotiated rates, historical out-of-network allowed amounts, and drug pricing information.” [Full Article](#)

Ballard Spahr LLP

Regs Provide Cost-Sharing Change Flexibility for Grandfathered Health Plans

“Although the annual cost-of-living adjustment to the required minimum HDHP deductible has not yet exceeded the threshold that would cause loss of grandfathered status, grandfathered HDHPs will be able to increase their cost-sharing to meet a future minimum deductible adjustment without losing grandfathered status. The economic impact analysis included with the final regulations estimates that 400,000 firms sponsor ERISA-covered plans that are grandfathered or include a grandfathered benefit package option, and that these plans cover 19.1 million participants and beneficiaries.” [Full Article](#)

Thomson Reuters



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EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

Reckoning With Race Discrimination In Federal Workplaces

“On January 20, 2021, in one of his first acts as the 46th President of the United States, President Biden revoked an executive order (EO) barring government contractors, including subcontractors and grantees of federal funds, from certain types of racial sensitivity training in the workplace.” [Full Article](#)

Fisher Broyles, LLP



EEOC Issues Long-Awaited Proposed Wellness Program Rules

“The ADA proposed rules would create an entirely new compliance framework for employers that sponsor wellness programs. If the proposed rules are finalized in their present form, existing wellness programs may need to be reconfigured to fit within the new parameters. The GINA proposed rules represent a major shift in policy. Previously, employers could offer significant rewards in exchange for a spouse (or other family member) who completes an HRA. The GINA proposed rules would pare this down to a *de minimis* reward.” [Full Article](#)

Ogletree Deakins

EEOC Revises Guidance on Religious Discrimination in the Workplace

“The Equal Employment Opportunity Commission (EEOC) has approved revisions to its [Compliance Manual Section on Religious Discrimination \(Guidance\)](#).” [Full Article](#)

Jackson Lewis P.C.



No Surprises: Congress Enacts Surprise Bill Law and Adds Mandatory Billing Transparency

“To date, approximately 22 states have enacted protections against surprise billing. States cannot regulate ERISA health plans and thus cannot fully protect all consumers. The No Surprises Act will therefore extend surprise billing protections to ERISA plan beneficiaries, as well individuals in states without protections. States are explicitly empowered to enforce the No Surprises Act and if they do so, they will be the primary mechanism of enforcement.” [Full Article](#)

Proskauer

RISQ Review

STATE & INTERNATIONAL COMPLIANCE

CALIFORNIA



California Updates Its Pay Data Reporting

Requirements – Reports are due by March 31, 2021!

“[SB 973](#), enacted on September 30, 2020, requires private employers of 100 or more employees (with at least one employee in California) to report pay and demographic data to the Department of Fair Employment and Housing (DFEH) by March 31, 2021 and annually thereafter.” [Full Article](#)
Proskauer Rose LLP

CALIFORNIA



While Federal and California State COVID-19 Sick

Leave Has Expired, Some California Localities Continue

“Since the outset of the COVID-19 pandemic, the employment law landscape has continued to change at a rapid pace.” [Full Article](#)
Hunton Andrews Kurth LLP

CALIFORNIA



Five Important California

Employment Law Changes for 2021

“A new year ushers in new legal obligations for employers, particularly those with operations in California. From expanded California Family Rights Act (“CFRA”) coverage to new reporting and data-gathering obligations, employers should be aware of these five significant changes for 2021, all of which became effective Jan. 1, 2021.” [Full Article](#)

Brownstein Hyatt Farber Schreck

COLORADO



Colorado’s Extensive Pay

Equity Law is Now in Effect

“Colorado’s new Equal Pay for Equal Work Act (EPEWA) prohibits gender-based pay discrimination and imposes strict requirements for job postings and equal pay transparency. It became effective on January 1, 2021, and applies to all employers in the state. The main provisions of the EPEWA are summarized below.” [Full Article](#)

Vorys

COLORADO



For the New Year, Colorado Makes COVID-19

the Gift That Keeps Giving (Paid Time Off)

“On the night before Christmas Eve, the Colorado Department of Labor and Employment (CDLE) issued a surprise opinion that Colorado employers are required to provide still more paid sick leave for COVID-19 in 2021.” [Full Article](#)

Bryan Cave Leighton Paisner LLP

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STATE & INTERNATIONAL COMPLIANCE

NEW YORK



New Year, New Rules: New York Employees May

“The New York State Paid Sick Leave law (“NYSPSL”) and the amendments to the New York City Paid Safe and Sick Leave law (“ESSTA”) expanding employees’ paid sick leave entitlements will go into full effect on January 1, 2021. As we previously reported, NYSPSL went into effect on September 30, 2020 for accrual purposes, but employees are not able to access their accrued sick leave until January 1, 2021.” [**Full Article**](#)

Sheppard Mullin

NEW YORK



A Comparative Analysis of the New York State and New York City Sick And Safe Leave Laws

“On April 3, 2020, New York State enacted a paid sick leave law (“NY PSLL”) requiring many employers to provide paid sick leave.” [**Full Article**](#)

Nelson Mullins Riley & Scarborough LLP

OHIO



Ohio Governor Signs “Alternate Employer Organization” Legislation

“On December 18, 2020, Ohio Governor Mike DeWine signed Senate Bill 201 into law, which establishes a first-of-its-kind in the nation, new HR services entity called an Alternate Employer Organization (‘AEO’).” [**Full Article**](#)

Dickinson Wright LLP

MASSACHUSETTS



Massachusetts Opens Applications For PFML Bonding Leave For 2020 Births Or Child Placements

“The Department of Family and Medical Leave (Department) has opened applications for Paid Family Medical Leave (PFML) benefits related to family bonding leave for children born, adopted, or placed for foster care during 2020. The Department also issued two sets of Emergency Regulations on December 21, 2020.” [**Full Article**](#)

Seyfarth

MICHIGAN



Michigan Employers Get New Year Relief With Revised COVID-19 Anti-Retaliation Law

“Michigan employers got substantial relief from some of the more onerous provisions of the COVID-19 anti-retaliation law that was part of the Oct. 22 COVID-19 compromise legislative package. The amended law is effective as of Dec. 29, 2020, when it was signed by Michigan Governor Gretchen Whitmer.” [**Full Article**](#)

Barnes & Thornburg