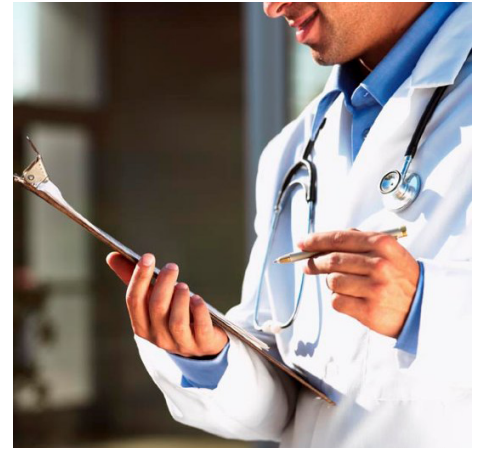


Medical Practices Face Challenges/Opportunities with the New Pension Protection Act



By Sylvia Bell, JD, Senior Manager of Employee Benefits

With the passage of the Pension Protection Act (PPA), a new wave of pension reform is now in place. The law addresses pension funding, participant education, hybrid plans, multi-employer plans and plan terminations.

The final complex provisions represent comprehensive pension legislation which affects all plans. PPA identifies troubled private pension plans and provides methods to help stabilize these plans prior to an employer resorting to bankruptcy.

Roughly 44 million Americans are covered by traditional pension plans.

Many plans, including those in health care practices, are experiencing significant financial concerns. As pension costs

skyrocketed over recent years, many employers abandoned traditional defined benefit plans for less solely employer-driven plans such as 401(k) plans.

Defined Benefit Plans **Deduction Limits**

The new law encourages plans to create a funding cushion. Under current law, employers are allowed a tax deduction for plan contributions

up to 100 percent of the plan's current liability. Contributions above that amount are subject to a 10 percent excise tax. For plans beginning in 2006 and 2007, the new law increases the maximum deductible amount to 150 percent of current plan liabilities. After 2007, deductible contributions may be made up to an amount equal to

the excess of the funding target, normal costs, and a "cushion account" equal to 50 percent of target liability plus accountability for projected compensation

increases over the value of the plan assets. Plans with 100 or fewer participants get a break on computing benefit increases for highly compensated employees.

The new law also increases allowable deductions for an employer that maintains both a defined contribution plan and a defined benefit plan by excluding contributions to defined benefit plans insured by the PBGC.

Many plans, including those in health care practices, are experiencing significant financial concerns.



ALPERN ROSENTHAL
INSPIRING OPPORTUNITIES

please see back

Pension Protection Act *from front*

Full Funding

The new law requires most pension plans to become fully funded over a seven-year period. The transition from current 90 percent funding to 100 percent full funding is gradual. The funding rules apply to plan years beginning in and after 2008. Plans that are not fully funded at the start of 2008 may work on meeting interim targets of 92 percent in 2008, 94 percent in 2009, and 96 percent in 2010.

An estimated 30,000 pension plans are now underfunded and will be required to better fund their plans. The Labor Department estimates that plans are currently about \$450 billion underfunded.

At Risk Plans

Having an “at risk” plan will subject the employer-sponsor to even stricter funding requirements. The result is accelerated contributions. Under the rules, a plan “at risk” is: (1) less than 80-percent funded, without regard to at-risk liabilities and (2) less than 70-percent funded including at-risk liabilities. At risk liabilities are determined by assuming that employees eligible to retire in the next 10 years will retire as early as possible.

Hybrid Plans

Rather than leave employees with no pension plan at all by pulling out of the system, Congress wants to encourage opting for hybrid “cash balance” plans— part pension and part savings plans. Some practices have

been worried about lawsuits based on claims of age discrimination because the conversion could hurt older employees who have too few years to build up a savings nest egg. The new law insulates employers from those claims on further conversions.

Defined Contribution Plans

Participant Education

The new law requires plan sponsors to educate participants about their rights and responsibilities, including investment education and the tax consequences of various payout options. The increased education requirements are designed to promote significant understanding and awareness of the retirement plan features and the potential for an impact on the individual’s retirement.

Automatic Enrollment

It is now easier for employers to automatically enroll their employees into the company’s 401(k) plan. Simply stated, automatic enrollment requires the employee to take action to opt-out of the plan or to change their level of participation and investment choice that are automatic (designed by the employer). Practices make default contribution decisions which employees can change.

Investment Advice

The new law permits 401(k), IRA and similar providers to offer personalized investment advice to account holders. The investment advice arrangement must provide that any fees, including commission, received by the fiduciary advisor do

not vary depending on the basis of any investment option selected or a computer model must be used. Although 401(k) providers can give personalized investment advice to account holders, they may not advise employers about which funds and investments to include in their plans. If the employer wants advice about which funds to include etc. that type of service is offered by fund or investment managers and is clearly distinguished from the type of investment advice addressed in PPA.

Sylvia Bell, JD, is Senior Manager of Employee Benefits at Alpern Rosenthal. She can be reached at 412.281.2501, ext. 335 or at sbell@alpern.com.