

# It Benefits You Your Employee Benefits Newsletter

March 2022

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## Every shot counts!

March Madness is upon us, and many employers are setting new goals, settling into a new benefits plan year, and looking forward to the end of a long winter. While sports provide a great opportunity to engage in a little friendly office competition, the employer benefits "court" presents its fair share of obstacles – such as keeping employees engaged in wellness programs, responding to mid-year benefits change requests, and navigating new compliance responsibilities. At McGriff, we know that an employer's benefits strategy is as unique as an NCAA bracket. Your trusted McGriff benefits consultants and account teams are here to answer questions and provide guidance so you can easily score your benefit plan goals!



## Think you're complying with MHPAEA? The DOL says, "Think again!"

The Mental Health Parity and Addiction Equity Act (MHPAEA) requires a comparative analysis of non-quantitative treatment limitations (NQTLs) for mental health and substance abuse benefits. According to a recent DOL [report](#), none of the plans scrutinized by the DOL initially complied with the comparative analysis requirement. The McGriff Compliance Team has a guide to help plan sponsors determine what elements of the act apply to their company and what steps to take to meet these enhanced requirements.



[Click here](#)  
to access  
this helpful  
resource!

## Upcoming Compliance Deadlines

March



### Medicare Part D Coverage Disclosure to CMS for Calendar Year Plans

Employers whose group health plans provide prescription drug coverage must report to CMS within 60 days after the beginning of the plan year whether the benefits are creditable with respect to Medicare Part D coverage.

March



### MEWA Annual M1

Multiple employer welfare arrangements must file their Form M-1 annual report by March 1 with the DOL. This filing requirement applies to all MEWAs, including insured and self-insured arrangements.

March



### IRS Forms 1095-B/1095-C Due to Individuals

A self/level-funded employer with fewer than 50 full-time employees must provide 1095-B individual statements to full-time employees covered under their group health plan. The IRS now allows a self-funded non-ALE employer to meet this furnishing obligation by posting a clear and conspicuous notice on its website stating that responsible individuals may receive a copy of their statement upon request. An ALE must provide 1095-C individual statements to full-time employees with specific information relating to each employee's offer of coverage for every month of 2021. The original deadline of January 31 is now permanently extended to March 2.

March



### Electronic Filing Deadline for IRS Forms 1094-C/1095-C

March 31 is the deadline for e-filing ACA forms 1094-C and 1095-C. Employers filing 250 or more 1095-C forms are required to file electronically with the IRS.



## Don't be Surprised by the Consolidated Appropriations Act's No Surprises Act and Prescription Drug Reporting Requirements

The Consolidated Appropriations Act of 2021 ("CAA") will continue to demand the attention of group health sponsors in 2022 and beyond. This year's robust regulatory agenda now includes the various requirements of the No Surprises Act and Prescription Drug and Health Care Reporting. The McGriff Compliance Team has prepared [a chart](#) breaking down each No Surprises Act requirement and CAA transparency provision. In addition, we have prepared guidance to help plan sponsors determine which provisions of the No Surprises Act affect certain plans and what plan sponsors need to do to comply. We also outlined the steps plan sponsors must take to comply with the recent guidance on Prescription Drug and Health Care Spending and how the new rules fit into the larger picture of recent healthcare transparency laws.

- [No Surprises Act Compliance Q&A](#)
- [Reporting Prescription Drug and Health Care Spending Q&A](#)

## Defined Benefit vs. Defined Contribution: Choosing the Right Retirement Program

Employer-sponsored retirement plans are divided into two major categories: defined benefit plans and defined contribution plans. As the names imply, a defined benefit plan—also commonly known as a pension plan—promises a specified benefit amount at retirement. The benefit usually is defined via a plan formula based on the employee's pay and/or years of service and the (guaranteed) benefit is payable for the employee's lifetime. A defined contribution plan does not promise a benefit amount at retirement, but rather allows employees and employers (if they choose) to contribute to an individual account and invest funds over time to save for retirement. In this type of plan, it is the annual contribution that is known and the ultimate benefit at retirement depends on the investment performance of the account.

In general, defined benefit (DB) plans come in two varieties: traditional pensions and cash-balance plans. Examples of defined contribution (DC) plans include 401(k) plans, 403(b) plans, employee stock ownership plans, and profit-sharing plans. The benefits in most defined benefit plans are protected, within certain limitations, by federal insurance provided through the Pension Benefit Guaranty Corporation (PBGC). Defined contribution plans do not have PBGC protection.

Among the key distinctions between DB and DC plans are which party—the employer or employee—bears the investment risks and the cost of administration for each type of plan.

In a DB plan, usually the cost of the plan is borne entirely by the company. Employees are not expected to contribute to the plan, and they do not have individual accounts. Instead of an individual account, the employee has a right to a specific annuity, which is a stream of defined benefit payments. Employees do not have to enroll for the plan, and once they

meet basic eligibility rules, they are automatically covered. Except for cash balance plans, benefits in DB plans typically are not as portable when switching jobs as they are under a DC plan.

In a DB plan, the company has responsibility for plan investments and since the benefit promise must be honored regardless of how the underlying funds perform, the employer bears the risk on investments. Because of this risk, DB plans require actuarial computations and insurance that provides for benefit guarantees, making the costs of administration sometimes higher than in some DC plans.

The cost of a DC plan is typically borne by the employees, by deferring a portion of their salary. There are limits on how much an employee can contribute each year, and the employer can match the contributions up to a certain amount, if they choose. The employee often has to enroll in the plan (although auto-enrollment is becoming more popular) and will then have a personal account within the plan to choose investments for. The investments grow on a tax-deferred basis until funds are withdrawn at retirement. The employee owns the account itself and can withdraw or transfer funds according to the provisions of the plan, potentially via loans, hardship distributions, or a distribution upon termination of employment (often in the form of a roll-over to an IRA or their new employers' plan). Contributions are typically invested in mutual funds and money market funds, but the investment menu can also include annuities and individual stocks. Because the employees' benefit is the account derived from contributions and earnings thereon, and there is no benefit promise beyond that, the employees bear the investment risk under a DC plan. Aside from offering a satisfactory menu of investment options for the employees to choose from, the employer generally has no obligation or

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risk with respect to the investments. In addition, these plans generally require less administrative work than DB plans, and will often cost less to administer.

Largely as a result of the factors above, DB plans in the private sector have become less common, increasingly having been replaced by DC plans over the last few decades. This shift to DC plans has placed the burden of saving and investing for retirement on employees.

**This table compares some of the typical key features of these two types of plans.**

	DB Plans	DC Plans
Employee Participation	Mandatory	Voluntary
Investment decisions and risk borne by	Employer	Employee
Retirement income stream guaranteed for life?	Yes	No
Retirement income amount is known or predictable	Yes	No
Inflation protection built in?	Often	No
Prevalence of ancillary benefits	High	Low
Loans and hardship withdrawals allowed?	Rarely	Often
Normal distribution from plan	Monthly annuity for life, but sometimes lump sum is an option	Lump Sum
Benefits Guaranteed by PBGC	Yes	No
Generally targets benefits towards	Older, long service	Younger, short service
Key service provider	Actuary	Record-keeper
Cost volatility	Higher (somewhat unpredictable, arising from demographic and investment experience)	Lower (usually a function of payroll)
Net liability (or asset) on employer's year-end balance sheet	Yes	None
Ultimate cost of retirement benefit, per dollar of benefit provided	Lower	Higher

Despite the emerging prevalence of DC plans, whether to sponsor a DB or DC plan depends on many considerations that are specific to each individual plan sponsor.

As you can see in the table, neither type of plan is likely to have all of the more desirable features that a plan sponsor might like. For example, the DB plan provides retirement benefit security for the participant, whereas the DC plan's ultimate retirement benefit is dependent on the employee's deferral and investment choices. The DC plan presents much less market risk to the employer, but a DC plan doesn't have the cost-effectiveness of a DB plan when it comes to providing a specific level of benefit. However, the DB plan has higher volatility as a trade-off for that cost-effectiveness. If a sponsor wants to target predictable benefits towards older, longer service employees, a DB plan is more likely to be the choice.

Therefore, neither plan type is inherently better than the other; the choice of plan type is highly dependent on the objectives of the plan sponsor.

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McGriff Consulting Actuary



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# Avoiding Burnout When You Work in HR

If you work in HR, you know that employee burnout remains pervasive. You also know that the task of supporting overly stressed employees often falls on your shoulders. But you're exhausted too. Burnout isn't just a problem you have to help others solve; you also have to solve it for yourself. Here are seven ways to do that.

## Set Boundaries

First and foremost, set boundaries. You cannot possibly be all things to all your people, available at all times no matter the cost. That's not your job. More to the point, your job is not the supreme ruler of your time. Having a job means that you've committed to using some of your time to complete a certain amount of work, but you should still think of that time as yours. After all, it's your life, your energy, your health. Don't feel bad about giving time to your needs just because you're working. The mindset that you can never prioritize your needs while on "company time" is an unhealthy one.

Place boundaries around both the time during which you work and what you spend your time doing while working. If you say that you're done with work at 6 p.m., don't do any work after 6 p.m. Emails and Slack messages can wait until the next workday. If people at work need to be able to reach you in an emergency, establish a specific way for that to happen (e.g., a call or text to your cell) and make sure the people who may contact you know what qualifies as an emergency and what doesn't.

You can set boundaries during the workday by delegating tasks that don't need to be done by you. HR is a big job for one person or even one department. Not every personnel issue even should be handled by you. Managers and department heads should be able to handle a lot of those issues themselves, and only come to you for help if it's actually needed. If they are bringing you so many small problems that you don't have time to resolve the big ones, you may need to set different expectations or train managers to resolve certain issues themselves. If you're having to manage employees for them, they're not doing their jobs (and may need to be developed or replaced).

## Know What You Can and Cannot Control

In HR, we often feel responsible for everything related to employees. If there's an issue, it's on us to address it. A



problem? We own the solution. Something not improving? We're at fault. This belief that we are responsible for all the things causes stress to mount and leads to burnout. It also isn't true.

We can't be responsible for what we can't control, and so much that happens in the workplace is simply out of our control. It's vital—both for our work and our mental health—for us to know what is and isn't in our power to change. If employees are quitting as a result of ineffective workplace policies, and you have purview over those policies, you can probably do something about this attrition. But if they're quitting because there are better opportunities for them that your organization can't match, there may be nothing you can do. Spending time trying to solve unsolvable problems isn't going to have a good return. Or, as the old saying goes, if there is no solution, there is no problem.

## Implement Clear and Simple Policies and Practices

The more ambiguous or complex your workplace policies and practices are, the more questions people will have about what they mean or require. If you find that your people often come to you asking what they're supposed to do in a given situation, look at what you can do to answer their questions proactively. Do you have an employee handbook? Standardized practices for managers? Granted, some employees aren't going to read any policy documents you give them, but in general you can save yourself (and others) a lot of time by defining policies and practices so that they are clear, accessible, and easy to follow. Accordingly, you should ensure that leaders are aware of where the handbooks, policies, and guidelines reside so that employees may self-serve whenever possible.

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## Train Your Colleagues

Being the only one who can do a certain essential task may be good for your job security, but it isn't good for your health. If no one else can do what you do, you can't truly get away or be guaranteed to focus on one task to the exclusion of all others. People can only cover for you if they have the knowledge and skills to complete the tasks you need covered.

Realistically, you can't plan for every contingency, but teaching colleagues the skills and knowledge they'd most likely need when covering for you increases the likelihood that they'll be able to handle whatever arises while you're away or focused on an urgent project.

## Take Time Off

Speaking of getting away, take time off. You need a break from work as much as anyone—maybe more so—and you don't need to justify it. You don't have to feel sick or especially overwhelmed or have something special planned. Breaks from work are good for you, period. If you feel the need to justify a break from work, take time off to set a good example to everyone else that they should be taking time off too.

When employees see leaders in their organization taking ample time away from work, they feel more confident taking time off themselves. That helps save those employees from burnout, which in turn saves their leaders' time.

## Connect with Other HR Professionals

Working in HR can be a lonely profession, especially if you're a department of one. When you're in HR, friendships at work range from tricky to ill-advised. You may not have anyone at work you can really open up to or who appreciates the challenges of your job. Fortunately, there's an active community of HR professionals online who are more than happy to share ideas, answer questions, or just listen. You can find them on LinkedIn, Twitter, and elsewhere by searching #hrcommunity or #hr. They're a friendly and chatty bunch, eager to converse about the latest trends, specific pain points, and the generally daunting challenges of working in HR.

Consider following a few HR practitioners, participating in a conversation, or just watching from the sidelines until you feel more comfortable. It's not quite the same as having a close friend at work, but what it lacks in close proximity, it makes up for in shared experience.

## Treat Yourself

"I'm going to let you in on a little secret," Special Agent Dale Cooper says to Sheriff Harry S. Truman in the television series *Twin Peaks*. "Every day, once a day, give yourself a present. Don't plan it. Don't wait for it. Just let it happen."

The present doesn't have to be extravagant. Cooper's examples include a catnap in one's office chair and taking a few minutes to enjoy a nice hot cup of coffee. Yours might be a 20-minute walk to get some fresh air and Vitamin D. The point is to be not just reasonable, but generous with yourself every day. The work we do in HR is stressful, emotionally taxing, and tiring. We spend our days supporting others in difficult situations. Our job is giving time, comfort, and care to others. It's important to give those things to ourselves too.

This article was written by our strategic partner Mineral, and reprinted with permission.

## Get the Most Out of Your McGriff Sponsored Mineral Account: Mineral "How-To"

We get it - HR and compliance can be challenging, especially when you throw in the complexity of ever-changing employment laws. **Mineral** can help!

By combining certified experts with tech-enabled tools, **Mineral** can take some of the guesswork out of HR and free you to focus on what matters most - running your business. **Mineral Intelligence** monitors changing HR compliance regulations and federal and state laws in real time and sends you proactive alerts to let you know exactly what steps to take to help stay compliant - wherever you do business. As many regulations vary based on your number of employees and on the states in which you operate, ensure you are receiving the most relevant recommendations by letting **Mineral** know exactly where you do business and the number of employees in that location. Update your company profile today and add your business locations to start receiving personalized and proactive guidance to keep you ahead of the curve! [Click here for instructions!](#)

## Are Your Wellness Programs Underutilized?

You've surveyed your employees and you've even taken an in-depth look at your employee population health statistics. Based on that analysis, you've identified a wellness solution that will get people engaged and proactive in improving their overall health, and by extension, put a big dent in your health plan claims costs.

You do all the right planning, prepare informative communication campaigns to distribute during open enrollment, and conduct demonstrations of the wellness platforms. There is an initial surge in program enrollment followed by a huge drop-off in participation. People forget about the wellness programs, fail to use them as much as expected, and ultimately the programs fall short of expectations. Even worse, you're paying a Per Employee Per Month (PEPM) fee, with the majority of the employee population failing to engage.

You don't have time to continually remind your employees about their great wellness benefits you've provided for them. Furthermore, the reminders will likely fall on deaf ears unless they happen to be delivered at a time when an employee is already thinking about a health/wellness issue in their lives.

All of this adds up to a big challenge. How can you address it?

An employer's best option for encouraging employees to engage with existing wellness solutions is communication. You need ambassadors who are not only intimately familiar with your wellness programs, but have the skill to engage in conversations with employees about specific health/wellness issues. These individuals can then recommend or refer an employee to the appropriate program, e.g., one addressing diabetes or mental wellness, or carrier-based offerings such as EAP, smoking cessation, disease management, or even medical care. When solutions are brought in at the same time a health problem is on someone's mind, we know that person is more likely take action.

The McGriff Peak Health program uses registered nurses to provide health risk assessments, coaching, and navigation. The navigation component helps the employee move beyond knowledge to taking specific action. Peak Health nurses have made thousands of referrals into employer wellness solutions. That helps employers increase the return on their investment in these solutions and puts employees on the road to better health by hearing about the right solution at the right time.

To learn more about the Peak Health wellness program, contact your McGriff Benefits Consultant.



**Nirav Desai**  
Managing Director, Peak Health





## National Emergency Extends Outbreak Period and Certain Benefits Deadlines

On January 14, 2022, the Biden Administration [renewed](#) the public health emergency declaration related to the ongoing COVID-19 pandemic. The initial declaration from the Trump Administration on January 31, 2020, has been extended every three months and will likely continue to be extended for the foreseeable future. Separately, last year the Biden Administration extended a separate National Emergency [declaration](#) under the Stafford Act, which will be in effect until at least February 28, 2022, and likely beyond. The National Emergency has important implications for employee benefits compliance that many plans still do not fully understand.

At the start of the pandemic, regulators used their [rule-making authority](#) to extend certain ERISA deadlines during an “Outbreak Period” beginning March 1, 2020, and scheduled to end 60 days after the national emergency declaration. In 2021, [new guidance](#) reaffirmed the continuation of the Outbreak Period, but limited the extension of any single deadline to one year. Specifically, the Outbreak Period continues to extend deadlines related to (1) ERISA claims and appeals procedures; (2) COBRA elections, premium payments and notices of qualifying events or disability; and (3) HIPAA notifications of special enrollment events. As long as the National Emergency and Outbreak Period remain in effect, plan sponsors must comply with these deadline extensions.

Here is a fictitious, but practical, example related to HIPAA notifications of special enrollment events during the Outbreak Period:

**Q:** On February 1, 2022, Suzy, an employee of Acme, Inc., informed HR that her spouse lost group health coverage under the spouse’s plan on September 1, 2021, as a result of termination of employment. The employee wants to add coverage for the spouse under the Acme group health plan. Should Acme enroll Suzy’s spouse in coverage?

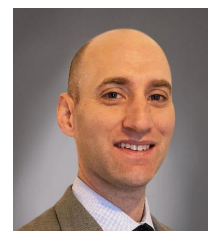
**A:** Yes. As a result of the spouse’s loss of coverage, Suzy is entitled to a HIPAA Special Enrollment Period to add her spouse to the Acme group health plan. While Suzy’s deadline to notify the plan of the loss of coverage is subject to plan design, most plans require notice of HIPAA special enrollment events from the employee within 30 days (60 days for loss of Medicaid). Under that standard timeframe, Suzy’s notice would not be timely, and the plan would generally not permit enrollment.

Because of the deadline extensions, now Suzy’s deadline to notify the plan is the earlier of (1) 30 days after the end of the Outbreak Period; or (2) one year + 30 days after the HIPAA special enrollment event date. Because the Outbreak Period continues and one year + 30 days has not passed since the qualifying event, Suzy’s notice is timely, and ACME should enroll her spouse in the plan.

As you can see, the continuation of the National Emergency and Outbreak Period presents administrative challenges. The key takeaway for plan sponsors is to be aware that these deadlines continue to be extended. Please do not hesitate to reach out to your McGriff Account Team if you have questions about specific fact scenarios.

**Chris Macali, JD**

McGriff EB Compliance Team Officer





## March Webinar Opportunities

As part of McGriff's commitment to bring you information on regulatory updates, current trends, and best practices, we are excited to invite you to the following live webinars scheduled for March. We hope you can join us for one or more of these educational opportunities!

### Welfare Compliance 101 – Standing Quarterly Meeting

March 10, 2022 | 3:00 pm EST | 1.0 SHRM/HRCI

To register, please [click here](#)

As a plan sponsor of employee benefit plans, you are subject to numerous federal regulations, from the ACA, ADA and COBRA to ERISA, GINA and HIPAA, just to name a few. Join our friends at Ogletree Deakins law firm to walk through the document, notice, distribution, and reporting obligations you have as an employer for your welfare benefit plans. McGriff will provide you with an at-a-glance compliance chart, so you are sure not to miss any of these obligations and deadlines for your company's plans.

### The Life Cycle of a Workers' Compensation Claim and Effective Cost Containment Strategies

March 17, 2022 | 2:00 pm EDT

To register, please [click here](#)

We will discuss critical strategies for demonstrating employee well-being and minimizing costs throughout the life cycle of the workers' compensation claim. Join us to learn best practices to help get your workers' compensation program, claims, Experience Modification Rate and costs under control. Presented by Lauren Tice, Attorney and Dawn Daum, Regional Claims Practice Leader, both with McGriff.

### Monthly Mineral Demonstration

March 15, 2022 | 2:00 pm EDT

To register, please [click here](#)

McGriff is excited to announce that ThinkHR – a web-based HR and compliance resource available for our employee benefits clients – is now MINERAL! Your existing ThinkHR account received an amazing platform upgrade in late January. Join us to learn more about these exciting new features and review all of the other resources that come with your McGriff-provided Mineral account!

### Employee Benefits Plan Design Primer: How to Avoid Discrimination Problems

March 24, 2022 | 2:00 pm EDT | 1.0 SHRM PDC

To register, please [click here](#)

While employers typically have plenty of flexibility to design their benefit plans to best meet their goals, they still must stay within certain compliance-related guardrails, including nondiscrimination rules. During this course, the McGriff EB Compliance Team will discuss how various federal laws that prohibit discrimination, from the ADA to HIPAA to the tax law, can impact plan design options and the consequences of running afoul of these rules.

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