

October 2017

Court Orders EEOC to Reconsider Wellness Rules

The U.S. District Court for the District of Columbia has directed the Equal Employment Opportunity Commission (EEOC) to reconsider its final wellness rules under the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA).

The final rules allow employers to offer wellness incentives of up to 30 percent of the cost of health plan coverage. The court held that the EEOC failed to provide a reasonable explanation for adopting the incentive limit. Rather than vacating the final rules, the court sent them back to the EEOC for reconsideration.

It is unclear how the EEOC will respond to the court's decision. Due to this new legal uncertainty, employers should carefully consider the level of incentives they use with their wellness programs. Employers should also monitor any developments related to the EEOC's rules.

Final Wellness Rules

Federal laws affect the design of wellness programs, including two laws that are enforced by the EEOC—the ADA and GINA.

For many years, the EEOC did not definitively address whether incentives to participate in wellness programs are permissible under the ADA and, if so, in what amount. Earlier this year, the EEOC issued long-awaited final rules, but the court has now remanded the final wellness rules back to the agency for reconsideration.

AxisPointe will keep you updated with any developments on this matter. In the meantime, please contact your representative with any questions about how these rules may affect you.

DID YOU KNOW?

A federal judge struck down the Department of Labor's (DOL) overtime rule, which would have raised the Fair Labor Standards Act minimum salary threshold from \$23,660 to \$47,476.

Based on the court's ruling, the DOL will need to present a more reasonable salary threshold if it wishes to pass any future overtime rules. This means employers should continue operating as usual, but they should be aware that an increase is possible down the road.

New SBC Template Required for 2018 Open Enrollment

The updated template and related materials for the [summary of benefits and coverage](#) (SBC) are required for annual open enrollment periods beginning on or after April 1, 2017. For calendar year plans, this means that **the updated template must be used for the 2018 open enrollment period.**

Employers should do the following to prepare for the new SBC template and related materials for the 2018 open enrollment period.

- Self-funded plan sponsors should ensure that they are using the new template.
- Employers with insured plans should make sure the carrier is providing the correct version of the template.

Contact AxisPointe with any questions about preparing for your 2018 open enrollment period.



HR Brief

Human Resources tips brought to you by
AxisPointe

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DOL Overtime Rule Defeated for Good

A federal judge struck down the Department of Labor (DOL) overtime rule, which would have raised the Fair Labor Standards Act (FLSA) minimum salary threshold from \$23,660 to \$47,476.

The federal court's decision is the final ruling on the subject, unlike the ban in November 2016 that merely halted the rule from taking effect.

While the DOL can still challenge the ruling, experts say this is highly unlikely. In the decision, the judge noted that an increase to the FLSA salary threshold was legally permissible, but added that the DOL overstepped by nearly doubling it. The DOL is now expected to continue the rule-making process and eventually raise the threshold to a "reasonable limit."



However, it is uncertain what limit would be deemed reasonable. The court stated that adjusting the rule's 2004 salary threshold for inflation would be an acceptable option.

Another factor in the court's decision was what it considered a circumvention of additional tests to determine FLSA exemptions. Under the current rule, employees must perform certain duties—in addition to earning the minimum salary limit—to qualify for an FLSA exemption. The court said that nearly doubling the minimum salary threshold made the duties test irrelevant.

Employer Takeaways

Based on the court's summary judgment and noted opinions, the DOL will need to present a more reasonable salary threshold if it wishes to pass any future overtime rules. This means employers should continue operating as usual, but they should be aware that an increase might come down the road eventually.

AxisPointe will keep you updated with any future developments on this matter. In the meantime, please contact your representative with any questions you may have.

DID YOU KNOW?

According to Gallup's State of the American Workplace report, more than half of employees surveyed said they would leave their current job for one that offers things like more flexibility and higher compensation.

Based on these findings, employers are apparently not delivering on these offerings. It is possible you have the benefits your employees want, but they may need to be more competitive. Consider surveying employees to see what they need to stick around.

Avoiding Disaster Relief Scams

Hurricanes Harvey and Irma were two of the most devastating storms in recent memory and cost an incalculable amount in property damage and loss of life. Events like these motivate generous people to give, but they also bring scammers.

It is important your employees know which charities are legitimate if they plan on donating money or resources. Here are some quick tips for ensuring donations go to those who need it:

- Never wire money to a charity.
- Always donate via a charity's official website.
- Do not trust charity recommendations on social media without looking up the charity yourself.

For a list of worthy, vetted charities, visit [Charity Navigator](#). The site receives a Form 990 for all its charities directly from the IRS, so it knows how their donations are used.