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WELFARE BENEFITS AND ERISA LITIGATION ALERT

U.S. Supreme Court's Recent Decision Upholding the Affordable Care Act – A Wakeup Call for Employers

In what has been termed the most significant decision of the decade, on June 28, 2012, the Supreme Court of the United States upheld the Patient Protection and Affordable Care Act ("PPACA"), President Barack Obama's signature healthcare legislation. In *National Federation of Independent Businesses, et al v. Sebelius*, the Supreme Court ruled that the so-called *individual mandate* to purchase healthcare coverage was a valid exercise of the federal government's right to impose taxes. Although the *individual mandate* does not apply to Puerto Rico residents, all of the provisions that impact employers in Puerto Rico remain in effect, pursuant to the decision.

In light of the Supreme Court's opinion, employers can no longer take a wait-and-see approach regarding the implementation of all the existing and upcoming requirements included in the statute. As such, employers must continue to comply with the obligations under PPACA that came into effect in 2010. These obligations include, among others, the implementation of enhanced internal appeals processes and external review processes, the expansion of dependent coverage for adult children up to age 26, and the elimination of pre-existing condition exclusions on minors.

Furthermore, the obligations imposed on employers by PPACA scheduled to come into effect in 2014 remain valid. Among those which could have a major impact on health plan costs and administration for employers are:

- The automatic enrollment provision requiring employers with more than 200 full-time employees who maintain health plans to automatically enroll new full-time employees;
- The prohibition against discrimination in favor of highly-compensated individuals;
- The prohibition against imposing pre-existing condition exclusions on adults;
- The prohibition on imposing waiting periods that exceed 90 days; and
- The prohibition on imposing annual limits on essential health benefits.

If you have any questions or comments, or wish additional information regarding this matter, you may contact any of the attorneys listed below, members of our Welfare Benefits and ERISA Litigation Practice Team:

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