

Schedule J of the Proposed Form 5500 Plan sponsors of group health plans take note!

In July, 2016 the Department of Labor (DOL), Department of Treasury (IRS) and the Pension Benefit Guaranty Corporation (PBGC) [published proposed regulations](#) in the Federal Register regarding Proposed Revision of Annual Information Return/Reports.

What is Schedule J?

If the proposed revisions to the Form 5500 are accepted, Schedule J will be a new addition to the Form 5500 Schedules for [group health plans](#) covered by Title I of ERISA. The amount of information requested is staggering.

Schedule J will have to be filed by all health & welfare plans; the less than 100 participant exception goes away. Certain group health plans with less than 100 participants will not be required to complete the entire Form 5500.

The Schedule J will provide information regarding contributions, claims, benefit structure and compliance information (see below for more details).

Why is it being proposed?

Currently, group health plans with less than 100 participants at the beginning of the plan year are exempt from filing a Form 5500 if the plan is unfunded, fully insured or a combination of unfunded and fully insured. Currently, the Form 5500 for self-insured plans contains very little information.

The Affordable Care Act requires the DOL to provide an annual report to Congress regarding self-insured health plans. This annual report must use data from the Form 5500.

In addition, the Affordable Care Act includes reporting requirements for group health plans subject to ERISA. The preamble of the DOL proposed regulations provide that compliance with the Affordable Care Act requirements would be satisfied by filing "any required schedules to the annual report".

What is the effective date?

The proposed Form 5500 and related Schedules would be effective for plan years beginning on or after January 1, 2019. The proposed regulations note that certain features could be implemented earlier.

Observation: The proposed regulations were issued July 21, 2016 in the Federal Register which is the height of the Form 5500 filing season for many. The original comment period was scheduled to end October 4, 2016; again, a busy time for calendar year plans on extension. Many professional organizations requested an extended comment period and on September 20, 2016, the DOL announced that the comment period has been extended to December 4, 2016.

What information is being requested on the Schedule J?

As noted earlier, the amount of information will be staggering especially for plan sponsors who previously filed a Form 5500. The Schedule J includes check boxes for a number of the questions, including:

- The plan offers health coverage to – employees, spouse, children, retirees, retirees only

- Benefit(s) and design characteristics – medical/surgical; mental health/substance abuse; pharmacy or prescription drugs; wellness; preventive care; emergency services; pregnancy benefits; vision; dental
- Funding – includes check boxes for employer contributions; participant contributions; benefits paid from general assets and associated amounts.
- Benefit package options – includes check boxes for grandfathered status; high deductible health plan; HRA; FSA
- How many persons were offered COBRA? Of the persons offered COBRA, how many elected COBRA?
- Did the plan receive any rebates, reimbursements or refunds other than those reported on Schedule A? If you answer yes to this question, there is another question that asks who provided the refund and what did you do with the refund.
- Questions regarding delinquent contributions
- Part II relates to service provider and stop loss insurance information
- Part III – relates to financial information and requests information regarding contributions received, receivable and other. *Note: this information is currently provided on Schedule A for insured plans. However, only Form 5500 filers that complete Schedule H can skip this question.*
- Part IV – Health benefit claims processing and payment information – includes questions regarding the number of pre-service and post-service claims submitted and the number of such claims paid and denied; The number of claims appealed; how many appeals were upheld; were the appeals adjudicated during the required time frame. There are more details to these questions!
- Part V – this section includes questions regarding Summaries of Benefit and Coverage (SBCs), Summary Plan Descriptions (SPDs), and whether the plan is in compliance with key regulatory requirements such as GINA, Michelle's Law, Mental Health Parity, Affordable Care Act and so on.

What will it mean to plan sponsors?

Practically speaking it will mean that your Form 5500 data collection efforts will significantly increase and your Form 5500 preparation costs will increase as well.

However, if you have been performing compliance audits, your data is in good order for 1095-C reporting and you regularly review your claims experience you may be well on the way to being able to answer these questions should the Schedule J be approved in its current format. Unless, you receive regular denied claims reports, begin the conversation with your current service provider regarding how they track denied claims and appeals.

What can you do to reduce this significant reporting burden?

With the extended due date for comments of December 4, 2016, we encourage you to review the proposed Schedule J and submit comments to the Department of Labor:

- Via email at: e-ORI@dol.gov. Include RIN 1210-AB63 in the subject line of the message.
- Via U.S. Mail or Private Delivery Services: Office of Regulations and Interpretations, Employee Benefits Security Administration, Attn: RIN 1210-AB63; Annual Reporting and Disclosure, Room N- 5655, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

Note: all links are active as of the date of issuance of this ErisaALERT.

Disclaimer: This material is for the sole purpose of providing general information and does not under any circumstances constitute legal advice and should not be used as a substitute for legal advice. You should seek the advice of counsel when applying the requirements to your plan. For more information on this ErisaALERT contact us by phone at 610-524-5351 and ask for Mary Andersen at ERISAdiagnostics, Inc. or 847-989-7338 and ask for Linda Fisher at Linda T. Fisher 5500 Consulting, LLC, co-authors of the 2016 Form 5500 Preparer's manual published by Wolters Kluwer.