

February 26, 2024

Intersure Member Monthly Compliance Update

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Agenda

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- Employer Compliance Webinar Content
- Johnson and Johnson Fiduciary Lawsuit
- Legislative Activity

Intersure Employer Compliance Webinars

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Employer Compliance Webinar Series

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- Monthly webinars cover important compliance issues for employers.
- Webinars are scheduled three months at a time – you will receive dates and descriptions in advance.
- You can invite an unlimited number of clients and prospects.

Q1 2024 Schedule:

Election Changes

Feb 27 | 3:00 Eastern 2:00 Central, 1:00 Mt., Noon Pacific

Mid-year election changes are perhaps the most common benefit compliance issue that employers must deal with. This month's webinar will provide a framework for thinking through the rules that apply to mid-year election changes and will also provide examples of frequently requested changes.

[Register Here](#)

Legislative & Regulatory Update

Mar 26 | 3:00 Eastern 2:00 Central, 1:00 Mt., Noon Pacific

As we settle into 2024, it is the perfect opportunity to look forward to what is expected for the remainder of the year. This webinar will focus on recent regulations, FAQs, and other guidance issued over the previous months to help employers keep up-to-date on the ever-changing employee benefit compliance requirements.

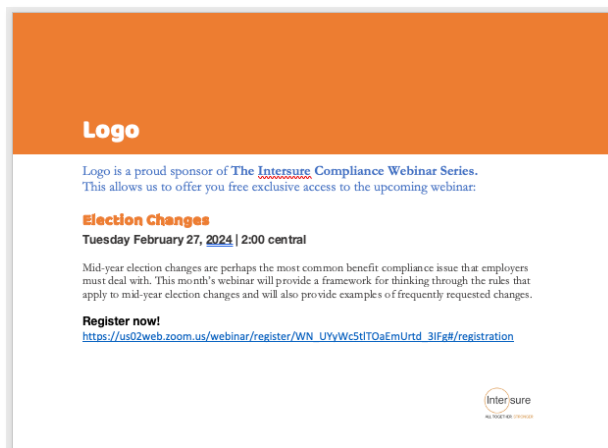
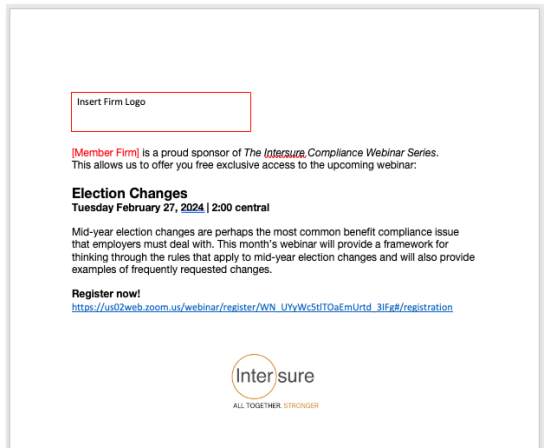
[Register Here](#)

Employer Compliance Webinar Series



How to Take Part

1. Download the white labeled invites from your Intersure Basecamp Portal.
2. Rebrand and send the invite to an unlimited number of employer clients and prospects.



Employer Compliance Webinar Series

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- Following each webinar you will receive a report of registrants and attendees as well as a link to the recording and any handouts that were provided during the live session.
- How can you increase your client participation in these webinars
 - Create an “Education Page” on your website with links to the registration
 - Have account managers and producers send an email to key clients and prospects
 - Include webinar announcement in other client communications (newsletters, etc.)

Johnson & Johnson Fiduciary Liability Court Case

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The J&J Case



The sky is
falling!
The sky is
falling!

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Some J&J Case Facts that Matter

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- J&J accused of significantly overpaying for prescription drugs – some of which were sold by J&J
- J&J very actively involved in the selection of specific drugs covered by the plan
- J&J holds plan assets, including employer contributions, in trust
 - Very few employers do this...

Act in the Best Interest of Plan Participants

Health and Welfare Plan Fiduciary Responsibility Basics

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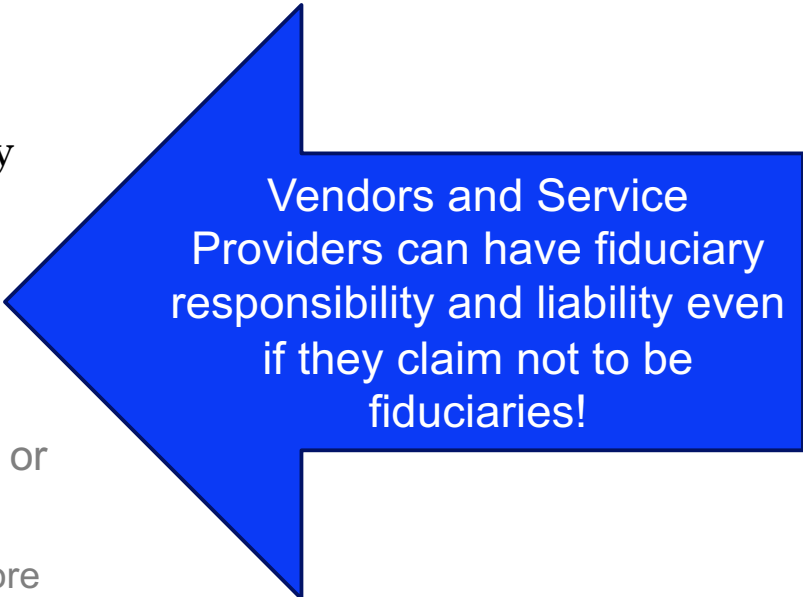
- ERISA §404 - Plan fiduciary must perform their duties:
 - solely in the interests of participants and beneficiaries;
 - for the exclusive purpose of providing plan benefits, or for defraying reasonable expenses of plan administration;
 - with the care, skill, prudence and diligence that a prudent person acting in a like capacity and familiar with such matters would use...; and
 - in accordance with the documents and the instruments governing the plan...

Who is a Plan Fiduciary

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- Named Fiduciaries

- Functional Fiduciaries
 - Exercises any discretionary authority or discretionary control with respect to management of the plan
 - Has discretionary authority or discretionary responsibility in the administration of the plan
 - Renders investment advice for a fee or for any other compensation, direct or indirect, or has any authority or any responsibility to do so
 - Less important for most health and welfare plans – more applicable to retirement plans



Vendors and Service Providers can have fiduciary responsibility and liability even if they claim not to be fiduciaries!

Vendor and Service Provider Selection and Oversight



Many compliance obligations cannot be handled by the employer alone...

MHPAEA

CAA

NQTL

RxDC Reporting

Gag Clause

Machine Readable Files

No Surprises Act

Employer Fiduciary Responsibility

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- Include compliance responsibility analysis as a critical part of the vendor selection process
- Review vendor contracts and consider including indemnification provisions that protect the employer/ plan sponsor
- Consider purchasing fiduciary liability insurance

Federal Legislative Update

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Federal Legislative Activity

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- Employer Reporting
 - Additional simplification may be included in Senate legislations being drafted now
- Telehealth
 - General Rule - Telehealth will interfere with HSA-eligibility if an individual does not pay fair market value for the services prior to meeting the minimum HDHP deductible
 - Relief for HSA-Eligibility Extended for 2023 and 2024 Plan Years
 - HR 1843 would make the Telehealth relief permanent
- S 3548 Health Care Price Transparency Act
 - Includes language to make PBMs and TPAs more responsible for compliance

ERISA

House Education and Workforce Committee has issued an RFI on enhancing ERISA's function in governing employer health plans...



Compliance Q&A

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