

June 21, 2012

**HEALTH CARE REFORM FOR EMPLOYERS:
WHAT'S NEXT AFTER THE SUPREME COURT RULES?**

The United States Supreme Court is expected to issue opinions by the end of next week in three separate cases challenging the constitutionality of the Patient Protection and Affordable Care Act ("PPACA"). The decisions in these three cases will affect every employer in this country.

There are three possible outcomes and each outcome has its own set of consequences:

- (1) ***The entire statute is unconstitutional and must be struck down.*** The Court could conclude that the entire statute is unconstitutional and must be struck down. If this is how the Court rules, the changes made by PPACA would "go away" (unless reenacted by Congress or reintroduced by the issuance of regulations) and we would go back to the rules that were in effect before PPACA was enacted. Because the law has already been in effect for more than two years and because employers and employer-sponsored group health plans have changed what they have been doing during that time to comply with PPACA, this would be a big change. If this is how the Court ends up ruling, we will review the PPACA rules that are no longer in effect and the old rules that will be coming back to life and we will explain where the Court's decisions have left us.
- (2) ***Part, but not all, of the statute is unconstitutional.*** The Court could conclude that part, but not all of the statute is unconstitutional and that the parts of the statute that are not unconstitutional should remain in effect. If this is how the Court rules, employers will need to know what parts of the law will remain in effect, what parts will "go away," and what "old" requirements will come back into effect in place of the portion of the law that the Court declared to be unconstitutional. We will review what's still there and what is gone and will explain where the Court's decisions have left us.
- (3) ***The entire statute is constitutional and will remain in effect in its entirety.*** The Court could conclude that the entire statute is constitutional and that it should remain in effect in its entirety. If this is how the Court rules, we will review the provisions of the law that will be taking effect later this year and next year, including recent guidance as to Form W-2 reporting requirements, the \$2,500 annual cap on health FSAs, and the "four-page" Summary of Benefits and Coverage ("SBC"), among other developments.

We have been asked by the Wichita Chapter of the Society for Human Resource Management ("Wichita SHRM") to make a special presentation explaining the Supreme Court's decisions and what those decisions will mean for employers. This presentation is scheduled for Tuesday, July 24, 2012, from 2:00 to 4:00 p.m. at the Abode Venue in Wichita. Clients and friends of our firm are welcome to attend; however, registration must be made through Wichita SHRM. If you would like to attend, more information is available online at the Wichita SHRM website (www.wichitashrm.org/calendarofevents/94408.aspx).

If you are not able to attend the Wichita SHRM presentation but are interested in this topic, please stay tuned. Depending on what the Supreme Court decides and how the dust starts to settle, it is possible that we may schedule additional presentations in addition to our presentation for Wichita SHRM.

If you have any questions regarding the PPACA and the Supreme Court's rulings, please feel free to call Steven Smith, Eric Namee, or Brad Schlozman at (316) 267-2000.

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