

## Insights

# RECENT BENEFITS AND COMPENSATION HIGHLIGHTS

Mar 12, 2025

Members of our employee benefits and executive compensation team have kicked off 2025 by speaking at conferences around the country about benefits and compensation topics that have been garnering extra attention recently. We have highlighted a few of those topics below:

- The Securities and Exchange Commission has continued bringing enforcement actions against companies for allegedly impeding employees from communicating with the SEC, such as by requiring employees to forgo whistleblower awards or forbidding them from communicating with the government without providing notice to you in advance of doing so. You should consider reviewing outstanding agreements, policies, and procedures to ensure language that could be deemed to impede communications is identified and addressed. Note that this is an area where the SEC can bring enforcement actions against even privately held companies.
- Litigation:
  - 401(k) plan forfeiture lawsuits related to a plan sponsor's use of forfeited employer contributions are on the rise. You should consider reviewing your plan's terms regarding how forfeitures are used and how such use is determined.
  - Lawsuits related to pharmacy benefit manager arrangements do not seem to be going away. You should consider reviewing your agreements with all vendors (not just your PBMs!) to ensure that you understand how those vendors are paid, both directly and indirectly. While it may often be prudent for you to decide to select or retain a vendor that is not the lowest-cost provider, you should be sure you have the full "fee" picture so you are comparing apples-to-apples when considering cost.
- The Department of Labor (DOL) has indicated it intends to spend much more time now and in the future than it historically has on health and welfare compliance issues. If your health and welfare "house" is not in order, now is the time to clean things up. We recommend starting with governance considerations, like adding health and welfare plans to any benefit committee's

purview or creating a separate committee for this purpose and ensuring that claims determinations are handled by the proper party in the permitted period.

- Finally, identifying ways you need to alter your practices to more closely comply with the DOL's April 2021 and September 2024 cybersecurity guidance should be on your 2025 to-do list, including, for example, (1) establishing a comprehensive cybersecurity program and (2) incorporating review of benefit plan vendors' cybersecurity practices into your vendor selection process and holding them to certain standards in service agreements.

As always, the above is high-level commentary that does not address the full scope of all current and emerging issues in the benefits and compensation space and recommended next steps depend on your specific facts and circumstances.

## **RELATED CAPABILITIES**

- Employee Benefits & Executive Compensation
- ERISA & Employee Benefits Litigation

## MEET THE TEAM



### **Stephen J. Evans**

St. Louis

[steve.evans@bclplaw.com](mailto:steve.evans@bclplaw.com)

+1 314 259 2387



### **Meredith L. Silliman**

Charlotte

[meredith.silliman@bclplaw.com](mailto:meredith.silliman@bclplaw.com)

+1 704 749 8933

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