



The HR resource every business needs

The "TOTAL" Advisor

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Brought to you by: Total Insurance Services, Inc.

U.S. Supreme Court Upholds Health Care Reform Law

After months of anticipation and speculation, the U.S. Supreme Court has [upheld the key provisions of Health Care Reform](#), with an exception related to state funding and the expansion of Medicaid.

How the Court Ruled

Key highlights of the decision to uphold the Health Care Reform law include:

- The **individual mandate**, which requires most individuals to maintain a minimum level of health insurance or pay a penalty beginning in 2014, is **upheld as constitutional** under Congress's power to tax.
- The portion of the law which threatens states' existing Medicaid funding for failure to comply with the requirements related to expanding the scope of Medicaid coverage is unconstitutional.
- **The remaining provisions of the Health Care Reform law are not affected and remain intact.**

What the Decision Means for Employers

Now that [Health Care Reform](#) has survived constitutional challenge, employers and group health plans will need to continue working to come into compliance with the law's requirements. If you have not already done so, be sure to review our [2012 Health Care Reform Checklist](#) for a list of important action items and check out the [Summary by Year](#) to stay ahead of required changes.

In this Issue

[Court Upholds Health Care Reform Law](#)

[New Limit for Health FSA Contributions](#)

[Does Your Company Need a Social Media Policy?](#)

[Form I-9 FAQs](#)

[7 Strategies for Keeping Top Talent at Your Company](#)

New Limit for Health FSA Contributions in 2013

Recent [IRS guidance](#) provides information on the new rules under [Health Care Reform](#) that limit the amount of salary reduction contributions to a health flexible spending arrangement (FSA) to **\$2,500 annually** (adjusted for inflation) beginning in 2013.



The [new guidance](#) addresses a number of issues related to the limit on contributions, including:

- The \$2,500 limit applies on a plan year basis and is effective for plan years beginning after December 31, 2012;
- Plans may adopt the required amendments to reflect the limit at any time through the end of calendar year 2014;
- Relief is provided for certain salary reduction contributions exceeding the \$2,500 limit that are due to a reasonable mistake and not willful neglect and that are corrected by the employer; and
- Comments are requested on whether the current "use-or-lose" rules for health FSAs should be modified in light of the new limit.

Limit Applies to Health FSAs Only

The guidance makes clear that the \$2,500 limit does not apply to contributions or amounts available for reimbursement under other types of FSAs, health savings accounts (HSAs), or health reimbursement arrangements (HRAs), or to salary reduction contributions to cafeteria plans used to pay an employee's share of health coverage premiums.

Visit our section on [Flexible Spending Arrangements](#) to learn more about FSAs.

Does Your Company Need a Social Media Policy?

Facebook, LinkedIn, Twitter--chances are, your employees are using one or more of these websites on a regular basis and, like many employers, you may be concerned about the potential effects on your business. But just how far can your company's social media policy reach?

Guidance from the NLRB

A [new report](#) issued by the [National Labor Relations Board](#) (NLRB) provides some insight for employers on how to create policies governing the use of social media that do not unlawfully interfere with employees' rights under [federal law](#) to engage in certain protected activities, such as the right to discuss wages and working conditions with co-workers.

Social Media Policy Considerations

Keep in mind the following considerations raised by the [NLRB report](#) when creating your company's social media policy:

- **Avoid overbroad language.** Workplace rules that are ambiguous and contain no language clarifying that the rules do not restrict employees' rights to discuss information regarding the conditions of their employment are consistently held to be unlawful.
- **Provide concrete examples of the type of conduct you wish to prohibit.** Rules that clarify and restrict their scope by including examples of clearly illegal or unprotected conduct (such as discrimination or threats of violence) are more likely to be lawful.
- **Don't require employees to get permission from the company before they post comments regarding terms and conditions of their employment.** The NLRB has long held that any rule that requires employees to secure permission from an employer as a precondition to engaging in protected activities violates the law.

The [NLRB report](#) includes a lawful employer policy on social media which provides examples of prohibited employee conduct, a restriction on using social media during the workday, and a rule requiring employees to maintain the confidentiality of the employer's private information.

As with all workplace policies, it is a good idea to review your policy with an attorney who is knowledgeable in this area of the law and your state's laws.

Form I-9 Frequently Asked Questions

As an employer, one of your most important responsibilities when hiring a new employee is to properly complete a [Form I-9](#). It sounds simple, but it can be easy to make a mistake or get confused as to exactly what is required. Below are three frequently asked questions and answers regarding the Form I-9 which come from the [Handbook for Employers-Instructions for Completing Form I-9](#) issued by U.S. Citizenship and Immigration Services.

Q. Do I need to fill out Forms I-9 for independent contractors or their employees?

A. No. For example, if you contract with a construction company to perform renovations on your building, you do not have to complete Forms I-9 for that company's employees. The construction company is responsible for completing Forms I-9 for its own employees. However, you may not use a contract, subcontract or exchange to obtain the labor or services of an employee knowing that the employee is unauthorized to work.

Q. What is my responsibility concerning the authenticity of document(s) presented to me?

A. You must examine the document(s), and if they reasonably appear on their face to be genuine and to relate to the person presenting them, you must accept them. To do otherwise could be an unfair immigration-related employment practice. If the document(s) do not reasonably appear on their face to be genuine or to relate to the person presenting them, you must not accept them.

Q. May I fire an employee who fails to produce the required documents?

A. Yes. You may terminate an employee who fails to produce the required document or documents, or an acceptable receipt for a document, within three

business days of the date employment begins.

Remember that completing Form I-9 is required by federal law for **every employee** you hire to work in the United States. Employers that violate the law may be subject to civil fines, as well as criminal penalties when there is a pattern or practice of violations. Our [Form I-9](#) section includes additional common questions and answers for employers about the Form I-9 process.

7 Strategies for Keeping Top Talent at Your Company

A [new study](#) released by the not-for-profit organization [WorldatWork](#) reveals that companies are increasingly worried about retaining top talent, particularly as the economy starts to improve.

Understanding the reasons why key employees leave is important to developing effective retention strategies. According to those surveyed, the main reasons for turnover include opportunities for better pay, lack of promotional opportunities, dissatisfaction with work and perceptions regarding unfair pay.

Ways to Increase Retention

Consider the following strategies to help reduce turnover and increase satisfaction among your company's valued employees:

- Make sure your compensation package is fair and competitive.
- Acknowledge and reward your employees' contributions and provide regular, constructive feedback.
- Provide a forum to encourage new ideas and open communication.
- Offer training programs and mentoring to enhance skills development, learning and career growth.
- Provide employee assistance, wellness and health programs.
- Support work-life balance and offer flexible work arrangements, such as varied hours and the possibility of telecommuting.
- Provide leadership opportunities.

A high rate of employee turnover can result in a loss of knowledge and skills, as well as have a direct impact on a company's bottom line. Creating a work environment which includes a range of motivators can result in improved performance as well as increased retention and enthusiasm for the company. For more tips on how to retain key employees, visit our section on [Motivating Employees](#).

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