



Health Update

**NCCMP Lawyers & Administrators Meeting
April 11, 2019**

Kathryn Bakich

 **Segal Consulting**

Enforcement Activity Continues

- Both DOL and CMS continue **active** programs to audit group health plans – multiemployer & large public sector plans are key targets
- Focus includes:
 - Grandfathered status
 - Mental Health Parity and Addiction Equity Act compliance – particularly treatment limitations like preauthorization or network restrictions
 - HIPAA special enrollment
 - ACA group mandates (including preventive services and emergency room services applicable to non-grandfathered plans)
- IRS also continuing to enforce ACA employer penalty



Employee Benefits Security Administration Recoveries 2017 & 2018

TOTAL MONETARY RECOVERIES (Health & Retirement)

| | 2017 | 2018 |
|--|----------|----------|
| Total Recoveries | \$1.1B | \$1.6B |
| Recoveries from Enforcement Actions | \$682.3M | \$1.1B |
| Voluntary Fiduciary Correction Program | \$10M | \$10.8M |
| Abandoned Plan Program | \$27.9M | \$33.4M |
| Monetary Benefit Recoveries from Informal Complaints | \$418.7M | \$443.2M |

CMS Office for Civil Rights

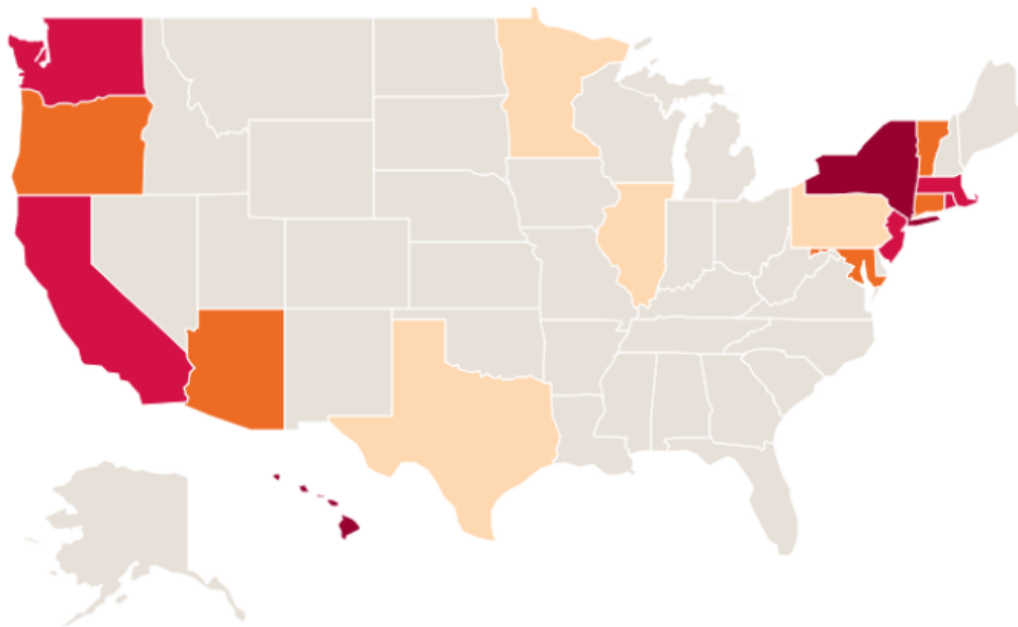
HIPAA Privacy and Security Enforcement

- In 2018, OCR concluded an all-time record year in HIPAA enforcement activity
- OCR settled 10 cases and secured one judgment, together totaling \$28.7M
 - This total surpassed the previous record of \$23.5M from 2016 by 22%
- OCR also achieved the single largest individual HIPAA settlement in history of \$16M with Anthem, Inc., representing a nearly three-fold increase over the previous record settlement of \$5.5M in 2016



Paid Leave

Total Number of Private Sector Workers Covered by Paid Sick Days, Paid Family Leave Insurance or Temporary Disability Insurance Laws, by State and Locality



- 1. Statewide paid leave AND paid sick days laws
- 2. Statewide paid leave law, no statewide paid sick days laws
- 3. Statewide paid sick days law, no paid leave law
- 4. State has local paid sick days law(s) but no statewide paid leave or paid sick days laws
- No paid leave or paid sick days laws

- *Nearly 45 million workers are covered by paid sick days laws;*
- *33 million workers are covered by paid family leave laws; and*
- *More than 28 million workers are covered by both*

Federal Paid Leave Proposals

- Both parties are introducing paid family leave proposals in Congress, but the details differ significantly.
- Sen. Marco Rubio (R-FL) and Rep. Ann Wagner (R-MO) introduced a bill providing mothers and fathers with pay while caring for a new baby by allowing them to draw from future Social Security benefits
- Sen. Kirsten Gillibrand (D-NY) and Rep. Rosa L. DeLauro (D-Conn) reintroduced the Family and Medical Insurance Leave (FAMILY) Act, which would provide workers with up to 12 weeks of partial income while taking family leave
 - This bill would create a family leave insurance, structured like unemployment insurance
 - Eligible workers could earn 66 percent of their monthly wages (capped at \$4,000) for up to 12 weeks of leave. The benefit would be funded by employer and employee payroll contributions

Questions?

