Health & Welfare Plan Design & Administration

Traversing Uncertainty

The health care field is one of the most rapidly innovating and legislatively complex sectors in the nation's economy. Digital health and other technologies are changing almost overnight the way health care is delivered, and legislative wrangles make the future uncertain about who will pay for what. Our team represents numerous public, private, and nonprofit corporations in structuring, financing, and operating employer-sponsored health and welfare, cafeteria, fringe benefit, and flexible compensation plans. We design and document plans, negotiate contracts with service providers, draft employee communications, and provide advice on claims and litigation and compliance with federal, state, and local regulations.

Reach

Responding To Market Pressure

Recognizing that the pace of change combined with uncertainty about the future of health care funding and administration can prove daunting, our attorneys are committed to staying informed about how legislative changes will impact health and welfare plans. We are dedicated to providing timely, workable, and creative solutions so clients can achieve their business goals.

Focus Areas

- The Affordable Care Act
- Health Accounts, including flexible spending accounts, health reimbursement arrangements, and health savings accounts
- Retiree Health Plans
- Self-Insured Health Plans
- Taxable & Tax-Exempt Benefit Plan Trusts
- Cafeteria & Flexible Compensation Plans
- HIPAA Privacy & Security Compliance
- Short-Term Disability & Long-Term Disability Plans, including integration with paid and unpaid leave policies
- Reduction in Force & General Severance Plans
- Life Insurance, AD&D & Other Welfare Plans
- Plan Documentation & Employee Communications
- Claim Disputes with Providers & Participants

Approach

Institutional Knowledge

Kilpatrick's health and welfare experience goes back four decades. The attorneys on our team have worked with officials at every federal government agency, including the U.S. Department of Health and Human Services, the

Centers for Medicare and Medicaid Services, Department of Treasury, the Internal Revenue Service, and the U.S. Department of Labor. For more than 20 years, the firm has had an active and sophisticated health and welfare practice in Washington, D.C., and we continue our tradition of serving as legal counselors, who bring a broad, practical perspective to technical issues.

Experience

Advised several retail and financial institutions regarding the move of each company's post-65 retirees from a traditional retiree medical plan to a health reimbursement arrangement paired with a private Medicare exchange.

Developed a comprehensive legal risk reduction strategy to minimize the effects of out-of-network provider claims and lawsuits against PepsiCo's health plans.

Acted as general ERISA counsel when reviewing and restructuring Frontier Communications' retiree medical plans to reduce legal risk and better streamline reporting and administration of over 100 separate benefit packages, which also involved qualifying various trusts as voluntary employee beneficiary associations (VEBAs) under Code Section 501(c)(9) and obtaining favorable IRS rulings for the trusts.

Provided guidance and assistance relating to all aspects of a global science-based company's retirement plans, including the design and qualification of the plans.

Advised one of the world's leading providers of lighting and building management solutions with the design, implementation, and administration of its health and welfare and qualified retirement plans.

Advised a membership organization specializing in compensation issues on cafeteria plan and welfare benefits matters, including representation in an Internal Revenue Service hearing on the Section 132(f) transportation benefit regulations and in a discussion with Treasury and the Internal Revenue Service regarding health reimbursement arrangements.

Obtained exemptions from the HIPAA electronic transaction rule for a benefits payment services company.

Designed and implemented Affordable Care Act and HIPAA privacy and security operational and documentary compliance for several publicly-traded corporations' group health plans.

Prepared package of integrated health care reform compliance tools for a health insurer to provide to existing and prospective insured and self-insured employer clients.

Counseled a life sciences and materials sciences company in compliance and design issues relating to medical and other welfare benefits for active employees and retirees; HIPAA privacy compliance; COBRA, FMLA, and cafeteria plan rules; and administrative service agreements.

Advised a direct seller of automation and industrial control products regarding federal laws impacting health and welfare plans and with 401(k) plan compliance.

Advised three Fortune 500 companies on establishing paid parental leave programs and how to integrate the programs with their short term disability programs, including drafting all program documents and employee

communications and designing a claims process for a third-party administrator to administer.

Negotiated and settled a fiduciary breach claim brought by the Department of Labor against a health plan VEBA, saving the VEBA over one million dollars in potential penalties.

Primary Contacts

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