AUGUST 18, 2010

Texas Injury Plans

Under Texas law, employers can opt-out of the normal workers' compensation system by sponsoring a separate, self-insured plan for workplace injuries, typically referred to as a Texas Injury Plan. are treated as ERISA group health plans and subject to the typical ERISA requirements, as well as the HIPAA privacy rules. Recently, some third-party administrators and plan sponsors have begun to review whether these types of plans are covered by the Affordable Care Act, and whether an exception can apply. There are exceptions in ERISA and the Internal Revenue Code for "worker's compensation and similar insurance" benefits. However, when an employer opts out of the workers' compensation system in Texas, then the Texas Injury Plan is not technically workers' compensation any more. Further, are self-insured and thus they also do not appear to be exempt as "similar insurance" benefits. Thus, plan sponsors will need to determine how the Affordable Care Act requirements will impact their .