

Regulation Summary

EBSA

EBSA Claims Procedure for Plans Providing Disability Benefits Rule

What it does:

- The rule improves the fairness, transparency, and accuracy of the disability claims process by requiring that plans, plan fiduciaries, and insurance providers comply with additional procedural protections when dealing with disability benefit claimants.

Major economic impacts:

- The rule ensures that disability claimants receive a clear explanation of why a claim was denied, their rights to appeal a denial, and their right to review and respond to new information developed by the plan during the course of an appeal. It also requires that plans avoid potential conflicts of interest among those individuals making decisions on benefits claims and appeals and that plans deliver benefit denial notices in culturally and linguistically appropriate manners in certain situations.
- The rule will result in some plan participants receiving benefits they might otherwise have been denied and will provide greater certainty and consistency in the handling of disability benefit claims and appeals. Fairness and accuracy will increase as fuller and fairer disability claims processes provide claimants with sufficient information to evaluate the claims process and defend their rights under the plan.
- The annualized cost is estimated to be \$15.8 million (see pg. 92332 of FR).

EBSA Conflict of Interest Rule

What it does:

- The rule requires all who provide retirement investment advice to plans, plan fiduciaries, and IRAs to abide by a “fiduciary” standard, meaning they must put the best interests of their clients ahead of their own.

Major economic impacts:

- Before this rule was put in place, conflicts of interest in retirement advice were costing American families an estimated \$17 billion a year according to the Council of Economic Advisors. CEA also estimated that, on average, these conflicts were estimated to lower annual returns on affected retirement savings by approximately 1 percentage point (see pg. 2 of CEA report on economic impacts of conflicted advice).

- The new rule will save affected middle-class families tens of thousands of dollars for their retirement over a lifetime of savings.
- The new rule also leveled the playing field for the many good actors in the retirement advice market who were already providing advice in the clients' best interests and it ensures that advisers compete on the quality of the advice they give.

EBSA State Savings Arrangements Rule & State Political Subdivision Savings Arrangements Rule

What they do:

- The rule provides guidance to states and city/local governments designing retirement savings programs for private-sector workers by providing a safe harbor from ERISA coverage so as to reduce the risk of ERISA preemption of relevant state and city/local laws.

Major economic impacts:

- Approximately one third of workers do not have access to retirement savings plans through their employer. States have sought to address this problem by proposing and enacting legislation requiring employers that do not offer workplace savings arrangements to automatically enroll their employees in payroll deduction IRAs administered by the states or by creating marketplaces of retirement savings options geared toward employers that do not currently offer them.
- Prior to the issuance of this rule, eight states had already enacted legislation to create retirement savings programs for private-sector workers, but uncertainty over the application of ERISA preemption had been a roadblock to the implementation of this legislation and the adoption of additional programs in other states and at the city/local government level.
- The final rules eliminate this roadblock by providing clear guidance on how states and cities/localities can establish savings programs that will help workers save for retirement without running the risk of ERISA preemption. The rules also protect worker rights by ensuring all workers have the ability to opt out of auto-enrollment arrangements.

ETA

ETA Update to Equal Employment Opportunity (EEO) Regulations for Registered Apprenticeship Programs

What it does:

- The update to the EEO regulations prohibits discrimination based on disability, age, sexual orientation, and genetic information; improves and clarifies affirmative steps

employers and sponsors must take to ensure equal opportunity in apprenticeship; simplifies and clearly defines the process for analyzing the talent available in the labor market; and clarifies the outreach, recruitment, and retention activities expected of sponsors. The update also ensures that the Office of Apprenticeship will provide effective technical assistance to States and work with apprenticeship programs to help meet their affirmative action responsibilities.

Major economic impacts:

- The rule will help improve access to apprenticeship opportunities for women, minorities, and persons with disabilities by helping remove or minimize barriers to entry for these groups. This will help foster equitable distributional effects and will alleviate some of the inefficiencies in the labor market these barriers create.
- Sponsors will benefit from the modernization of a regulation last updated in 1978 that streamlines and clarifies many of the requirements for easier compliance. These sponsors will also benefit from reaching a broader range of applicants, which will help programs access new talent.
- The updating of the EEO rules will also improve civil rights enforcement and public understanding of the law.
- The annualized costs of the final rule are expected to range from \$52.72 million – with 7 percent discounting – to \$53.80 million with 3 percent discounting (see pg. 92085 of FR). The annualized benefits that could be estimated using available data are expected to range from \$0.65 million – with 7 percent discounting – to \$0.68 million with 3 percent discounting (see pg. 92085 of FR). Note that most of the primary benefits of the rule could not be quantified using available data and are discussed qualitatively in the final rule’s regulatory impact analysis.

ETA Workforce Innovation and Opportunity Act Rules

What they do:

- The rules streamline and improve the coordination of employment and training services across federal agencies and strengthen collaboration between the federal government, employers, states, and municipalities.

Major economic impacts:

- The new rules strengthen accountability and transparency; increase access to work-based learning tools, such as apprenticeships; improve relationships with employers, including through sector partnerships; and foster more cohesive planning within economic regions. They also improve access to education and workforce services for individuals with significant barriers to employment, including persons with disabilities, certain veterans, disconnected youth, and other populations.
- The final rules include reforms that will affect more than a dozen programs receiving \$10 billion in annual training and education funding and programs that serve approximately 20 million Americans per year. (Costs of benefits of specific provisions can be found in the FR).

FAR COUNCIL with DOL

Fair Pay Safe Workplaces

What it does:

- On July 31, 2014, President Obama signed the Fair Pay and Safe Workplaces Executive Order to require prospective federal contractors to disclose labor law violations and give agencies guidance on how to consider labor violations when awarding federal contracts.
- There are 3 parts to the EO: contractor disclosure and reporting of labor law violations; paycheck transparency; and the prohibition of pre-dispute mandatory arbitration for disputes arising under Title 7 or from torts related to sexual assault or harassment.

Major economic impacts:

- The EO was designed to promote contracting efficiency by improving contractor compliance with basic labor standards during the performance of federal contracts.
- Taxpayer dollars should not reward companies that break the law, and contractors who meet their legal responsibilities should not have to compete with those who do not.

MSHA

MSHA Respirable Dust

What it does:

- On August 1, 2014, MSHA's landmark respirable dust rule went into effect, adding a number of increased protections for coal miners and closing several loopholes that masked their exposure to unhealthy coal mine dust.
- Lowering the concentration of respirable coal mine dust in the air that miners breathe is the most effective means of preventing diseases caused by excessive exposure to such dust.

Major economic impacts:

- The primary benefit of the final rule is the reduction of "black lung" disease (see pg. 24961 of FR).

OFCCP

OFCCP Pay Transparency

What it does:

- Under the rule, federal contractors and subcontractors may not fire or otherwise discriminate against employees for discussing, disclosing, or inquiring about their own pay or that of their co-workers. The rule also protects pay discussions by job applicants. The rule went into effect on January 11, 2016.

Major economic impacts:

- The rule is estimated to cost \$85 per company in the first year to, for example, become familiar with the new rule, make the provisions available to employees and applicants, and incorporate the provision into manuals or handbooks. This results in a total cost of \$42.7 million nationwide (see pg. 54940 of the FR).
- Approximately 25% of the American workforce is employed by companies that do business with the federal government.

OFCCP LGBT Non-Discrimination

What it does:

- On July 21, 2014, President Obama signed Executive Order 13672, amending Executive Order 11246, to prohibit federal contractors and subcontractors from discriminating on the basis of sexual orientation or gender identity. The final rule implementing the EO was effective April 8th, 2015.

Major economic impacts:

- Approximately 25% of the American workforce is employed by companies that do business with the federal government.
- Each year, federal contractors and subcontractors receive billions of taxpayer dollars to supply goods, provide services and perform construction work for government agencies. In return, they are held to a reasonable standard that they may not discriminate in hiring, firing, pay, promotion and other employment practices.

OFCCP Sex Discrimination

What it does:

- The rule updates OFCCP’s sex discrimination regulations to make explicit the protections against compensation discrimination; sexually hostile work environments; discrimination based on pregnancy, childbirth, or related medical conditions; and discrimination based on unlawful sex stereotypes, gender identity, and transgender statuses.

Major economic impacts:

- The regulations protect the millions of employees and applicants, both male and female, who work or seek to work for federal contractors. General, it is not necessary that employees work *on* a federal contract to be covered; they need only work for a company that holds a covered federal contract or subcontract. Approximately 25% of the American workforce is employed by companies that do business with the federal government.

OLMS

OLMS Persuader

What it does:

- The rule closes a longstanding loophole in the LMRDA that had allowed employers to hire consultants to create materials, strategies and policies for organizing campaigns without disclosing anything, as long as the consultant did not directly contact employees. The new rule will require reporting of employer-consultant, or “persuader” agreements. It will complement the information that unions already report on their organizing expenditures.

Major economic impacts:

- With more transparency, workers will be able to better assess the merits of the arguments that are being used to influence their decisions about how to exercise their right to choose union representation or engage in collective bargaining.
- Whether the union wins or loses, an informed workforce is in a better position to accept the outcome, build trust, and promote stable labor-management relations.
- The rule will primarily affect employers faced with deciding to support or oppose a union’s effort to represent their workplace. The number will vary from year to year, but according to NLRB data, more than 100,000 workers had the opportunity to decide

whether a union should represent them in FY 2015. Studies suggest that 71-87% of employers retain persuaders in representation campaigns (see page 15927 of the FR). Tens of thousands of workers would thus have been more fully informed about their decision on representation under this rule. Further, since not all union representation campaigns involve the NLRB election process, and because the rule also requires persuader and employer disclosures when employers retain persuaders in collective bargaining situations, thousands of additional workers not involved in NLRB elections will also have access to information relevant to important decisions about how to exercise their rights.

OLMS Notice-posting

What it does:

- The rule requires Federal contractors and subcontractors to notify employees about their rights under the NLRA. The required notice lists employees' rights under the NLRA to form, join, and support a union and to bargain collectively with their employer; provides examples of unlawful employer and union conduct that interferes with those rights; and indicates how employees can contact the NLRB with questions or to file complaints.

OSHA

OSHA Recordkeeping Modernization

What it does:

- The final rule, which took effect Jan. 1, 2017, requires certain employers to electronically submit injury and illness data that they are already required to record on their onsite OSHA Injury and Illness forms. Analysis of this data will enable OSHA to use its enforcement and compliance assistance resources more efficiently.
- Some of the data will also be posted to the OSHA website. OSHA believes that public disclosure will encourage employers to improve workplace safety and provide valuable information to workers, job seekers, customers, researchers and the general public.
- The rule also prohibits employers from discouraging workers from reporting an injury or illness. The final rule requires employers to inform employees of their right to report

work-related injuries and illnesses free from retaliation, which can be satisfied by posting the already-required [OSHA workplace poster](#)

OSHA Silica

What it does:

- In 2016, OSHA issued a final rule to curb lung cancer, silicosis, chronic obstructive pulmonary disease and kidney disease in America's workers by limiting their exposure to respirable crystalline silica.

Major economic impacts:

- About 2.3 million workers are exposed to respirable crystalline silica in their workplaces.
 - 2 million construction workers who drill, cut, crush, or grind silica-containing materials such as concrete and stone. (see pg. 16418 of FR)
 - 300,000 workers in general industry operations such as brick manufacturing, foundries, and hydraulic fracturing, also known as fracking. (see pg. 16418 of FR)
- OSHA estimates that the rule will save over 600 lives and prevent more than 900 new cases of silicosis each year, once its effects are fully realized. (see pg. 16399 of FR) (As is standard, the monetized benefits were in terms of the “value” of lives saved, so we did not include them here.)

OSHA Walking-Working Surfaces and Fall Protection

What it does:

- Falls from heights and on the same level (a working surface) are among the leading causes of serious work-related injuries and deaths. OSHA has issued a final rule on Walking-Working Surfaces and Personal Fall Protection Systems to better protect workers in general industry from these hazards by updating and clarifying standards and adding training and inspection requirements.
- The rule incorporates advances in technology, industry best practices, and national consensus standards to provide effective and cost-efficient worker protection.

Major economic impacts:

- OSHA estimates that these changes will prevent 29 fatalities and 5,842 lost-workday injuries every year (see pg. 82496 of FR).

WHD

WHD Minimum Wage for Federal Contractors:

What it does:

- On February 12, 2014, President Barack Obama signed Executive Order 13658 “Establishing a Minimum Wage for Contractors”, to raise the minimum wage to \$10.10 for workers on Federal construction and service contracts.
- Under the Final Rule, the Secretary of Labor is required to adjust the minimum wage rate each year based on a methodology outlined in the Final Rule.

Major economic impacts:

- The Department estimates that about 200,000 workers benefit from the Final Rule (see pg.60694 of FR).
- The Department estimates that the Final Rule may result in transfers of about \$500 million per year once coverage under the rule is fully implemented (see pg.60720 of FR).

WHD Paid Sick Leave for Federal Contractors

What it does:

- Executive Order 13706 was signed by President Barack Obama on September 7, 2015, and requires federal contractors to provide up to 7 days of paid sick leave annually to employees who work on or in connection with certain federal contract.
- The Final Rule allows these workers to use paid leave if they are sick, need to take care of a sick family member or must see a doctor or take a family member to a medical appointment. Workers may also use paid sick leave for reasons related to domestic violence, sexual assault or stalking.
- Under the Final Rule, employees accrue 1 hour of paid sick leave for every 30 hours worked on or in connection with a covered contract.

Major economic impacts:

- The Department estimates that the Final Rule will provide paid sick leave to about 1.2 million workers employed by Federal contractor, including approximately 593,800 employees who currently receive no paid sick leave. (see pg. 67672 of FR)
- The Department estimates average annual transfers to workers for time spent utilizing leave that is accrued as a result of the Final rule will be \$349.6 million over 10 years. (see pg. 67672 of FR).

WHD Home Care Rule

What it does:

- The rule extends the Fair Labor Standards Act’s minimum wage and overtime protections to most of the nation’s workers who provide essential home care assistance to the elderly and people with illnesses, injuries, or disabilities.

Major economic impacts:

- As of 2011, there were an estimated 1.9 million direct care workers in the U.S., and nearly all were employed by home care agencies. The rule extended federal minimum wage and overtime protections to all direct care workers employed by home care agencies and other third parties, meaning close to 2 million workers received these federal protections for the first time.
- The Department estimates that the rule will result in transfers to workers of roughly \$321.8 million on average per year (see pg. 60456 of FR). These income transfers are almost entirely composed of payment for time spent by direct care workers traveling between individuals receiving services for the same employer and payment of overtime when hours worked exceed 40 hours per week.
- The rule should also reduce the high turnover rate among direct care workers, which the Department estimates will result in economic benefits of roughly \$23.9 million on average per year (see pg. 60505 of FR). Once compliance costs are accounted for, the net benefits of the rule are estimated to be \$17.1 million on average per year (see pg. 60505 of FR).

WHD Overtime

What it does:

The Final Rule that updates the overtime regulations will:

- Raise the salary threshold indicating overtime eligibility from \$455 per week to \$913 per week (\$47,476 per year).
- Automatically update the salary threshold every three years, based on wage growth over time.

Major economic impacts:

- The overtime rule would ensure overtime protections to 4.2 million workers (see pg. 32393 of FR).
- An additional nearly 9 million (8.9 million) workers would gain strengthened overtime protections (see pg. 32405 of FR).
 - These are salaried workers who are overtime eligible based on their duties but are vulnerable to misclassification because they earn more than the old salary threshold. However, they earn less than the new threshold, so their status as overtime-eligible would be very clear under the new rule.
- The overtime rule would increase workers’ earnings by \$1.2 billion per year (see pg. 32393 of FR).

- This rule will have a meaningful impact on workers who will see higher pay, work fewer hours, and/or gain clarity about their status as overtime eligible, but it will not disrupt the economy.
 - Average annual direct costs to businesses are \$295 million a year (see pg. 32393 of FR). Those costs, along with the \$1.2 billion in increased pay to employees together result in roughly \$1.5 billion dollars per year in increased payroll costs for businesses. That's well under one-tenth of one percent of total U.S. payroll costs, which in the aggregate are more than \$6.5 trillion (see pg. 32497 of FR).

WHD Nondisplacement

What it does:

- The regulations require that workers on a federal service contract who would otherwise lose their jobs as a result of the completion or expiration of a contract be given the right of first refusal for employment with the successor contractor.

Major economic impacts:

- The Federal Government's procurement interests in economy and efficiency are served with the successor contractor hires the predecessor's employees. A carryover workforce reduces disruption to the delivery of services during the period of transition between contractors and provides the Federal Government the benefits of an experienced and trained workforce that is familiar with the Federal Government's personnel, facilities, and requirements.