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. . . Health Care Reform

New Powers for the MEWA Sheriff: Part I

Several key provisions of the Patient Protection and Affordable Care Act ("PPACA") provide the DOL expanded control over multiple employer welfare arrangements ("MEWAs"). Most recently, the DOL published proposed rules regarding ex parte cease and desist, and summary seizure orders—those are legal terms for a speedy shutdown of non-compliant plans.

Properly structured and financed MEWAs need not worry about these new provisions, because the new rules will apply only to a plan's conduct which is:

- Fraudulent;
- Causing immediate danger to the public safety or welfare; or
- Causing significant, immediate and irreparable injury.

The writers of the proposed rules note that the rules target impaired ability to pay claims, insufficient funding or inadequate reserves. The regulations also will not apply to financially solid MEWAs. The regulations will not apply to MEWAs that are licensed as health insurers.

If the regulations apply, then the Secretary is granted authority to issue cease and desist and summary seizure orders, and to undertake other expedited procedures to remove plan assets and other property from the administrators of the MEWA.

Unfortunately, there are a number of bad MEWAs out there. Hopefully, these proposed rules will address those issues so that good MEWAs are not impugned by the conduct of bad MEWAs.

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