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John is a pioneer in compliance issues for employer-sponsored health plans. His 25-plus years of experience with self-funding, HSAs, consumer-directed health care, and HIPAA enable him to spot issues and opportunities that save his clients money and avoid long-term administrative headaches. As author of major treatises on health issues, he practically wrote the book on health benefits compliance.



John Hickman is the leader of Alston & Bird's Health Benefits Practice, where he leads several attorneys devoted exclusively to health care reform issues under the Affordable Care Act, HIPAA privacy, health savings accounts (HSAs), and consumer-directed health care, flexible benefit plans, and related health benefit issues. John has worked closely with health plans, financial institutions, and employers, as well as the IRS, Treasury, and Department of Labor, in addressing health benefit issues.

John has been inducted into the American College of Employee Benefits Counsel and is listed in *The Best Lawyers in America*® and *Who's Who Legal*. *The Best Lawyers in America* named him a 2016 "Lawyer of the Year" in the area of Employee Benefits (ERISA) Law, and *Chambers USA: America's Leading Lawyers for Business* has recognized him as Band 1 in Georgia for Employee Benefits & Executive Compensation. John has lectured widely and published articles on health care reform, ERISA, and cafeteria plan issues. He is co-author of the following health benefit treatises: *EBIA Cafeteria Plans*, *EBIA HIPAA Portability, Privacy & Security*, and *EBIA Consumer-Driven Health Care* (all published by Thomson Reuters). John is head of the Technical Advisory Committee and is on the board of the Employers Council on Flexible Compensation (ECFC). John was also an adjunct professor of law at Emory University School of Law.

Representative Experience

- Counsel to major insurers on COVID-19-related compliance, ACA compliance, and health benefit and HIPAA privacy issues.
- Counsel to financial institutions and card associations for health benefit and HIPAA compliance issues.

Publications & Presentations

Publications

- "IRS Proposes Regulations on Direct Primary Care, Other Medical Arrangements," *Thomson Reuters*, June 11, 2020.
- "ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: 2019 Health Benefits Year In Review," *The Self-Insurer*, December 2019.
- "ACA, HIPAA, and Federal Health Benefit Mandates: Practical Q&A: IRS Expands Scope of Preventive Care for HSA Purposes for Individuals with Chronic Conditions," *The Self-Insurer*, November 2019.
- "ACA, HIPAA, and Federal Health Benefit Mandates: Practical Q&A: A New Era of HRAs Begins in 2020," *The Self-Insurer*, October 2019.

- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: DOL Cracks Down On Health Plan Tax Avoidance Schemes With Criminal Sanctions; Employers And Employees May Be Left Holding The Bag,” *The Self-Insurer*, August 2019.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: HHS Guidance: A Reminder And Some Relief,” *The Self-Insurer*, July 2019.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: DC Court Sends AHP Rule Back To DOL,” *The Self-Insurer*, May 2019.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: ‘Voluntary’ Benefits Face Different Compliance Burdens Than Traditional Group Health Plan Coverage,” *The Self-Insurer*, April 2019.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: A Texas Court Says the ACA Is Unconstitutional! What Does It Mean? Perhaps Back to the Future, But Nothing For Now,” *The Self-Insurer*, March 2019.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Agencies Pump New Life Into CDHC With HRA Guidance,” *The Self-Insurer*, February 2019.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Legislative Update: Recap of 2018 Employee Benefit Provisions,” *The Self-Insurer*, January 2019.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Benefit Compliance Issues That Arise In Connection With Employer Sponsored Clinic Arrangements: Part Two,” *The Self-Insurer*, December 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Benefit Compliance Issues That Arise In Connection With Employer Sponsored Clinic Arrangements: Part One,” *The Self-Insurer*, November 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Passage of House Bills Warrants A Fresh Look At Health Savings Accounts – Part Two,” *The Self-Insurer*, October 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Passage of House Bills Warrants a Fresh Look At Health Savings Accounts – Part One,” *The Self-Insurer*, September 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: DOL Issues Final Regulations for Association Health Plans: Real Opportunity for Small Employers or Much Ado About Nothing,” *The Self-Insurer*, August 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: DOL Issues Comprehensive Compliance Guidance for Mental Health Parity and Addiction Equity Act (MHPAEA),” *The Self-Insurer*, June 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: IRS QSEHRA Guidance Leaves Many ‘Gotchas’ for the Unwary Small Employer,” *The Self-Insurer*, May 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: AHP Opportunities for Small Employers and Business Owners,” *The Self-Insurer*, March 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Wellness Program Incentives and Recent Litigation,” *The Self Insurer*, February 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Auld Lang Syne; Farewell 2017 – Greetings 2018 – The Health & Welfare Benefits Law Year in Review,” *The Self Insurer*, January 2018.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Come Together: Executive Order Raises Potential Opportunities for Association Health Plans,” *The Self Insurer*, December 2017.

- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Dealing With Disaster: Issues and Relief for Health Benefit Plans,” *The Self-Insurer*, November 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Lawsuits are Focused on Wellness Program Compliance. Are You?,” *The Self-Insurer*, October 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Avoiding Common Practices That Violate The Mental Health Parity And Addiction Equity Act,” *The Self-Insurer*, September 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: IRS Clears the Air as to Tax Treatment of Benefits Under Traditional Health Fixed Indemnity Coverage,” *The Self-Insurer*, July 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: AHCA (v2): What’s In Store for Employer Plan Sponsors Under House-Passed Bill,” *The Self-Insurer*, June 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Whack-A-Mole – IRS Takes Aim At Latest Wellness Program Scheme, But Overly Broad Language Can Be Taken Too Far As Applied To Traditional Coverage,” *The Self-Insurer*, March 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A, QSEHRAs: End-of-Year Legislation Provides a New Health Care Option for Small Employers,” *The Self Insurer*, February 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A, 2016 Health and Welfare Compliance Highlights: A Walk Down Memory Lane,” *The Self Insurer*, January 2017.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A, Navigating the Winding Highway of Wellness Program Compliance – A GPS for the EEOC’s Wellness Program Rules,” *The Self Insurer*, December 2016.
- “Employee Benefits and Executive Compensation Advisory: Navigating the Winding Highway of Wellness Program Compliance,” *U.S. News-Best Lawyers Best Law Firms 2017*, 7th ed.
- “ACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A,” *The Self Insurer*, September 2016.
- “So You Heard About HIPAA Phase 2 Audits. What Should You Do Now?,” *The Self Insurer*, May 2016.
- “IRS Notice 2015-87 Provides Much Needed Guidance for Account-Based Plans and ACA Employer Shared Responsibility Requirement (IRC 4980H) Part II,” *The Self Insurer*, April 2016.
- “IRS Notice 2015-87 Provides Much-Needed Guidance Regarding Account-Based Plans and ACA Employer Shared Responsibility Requirement (IRC 4980H),” *ECFC Flex Reporter*, March 2016.
- “Supreme Court Strikes Down Vermont Health Data Reporting Law as Applied to Self-Funded ERISA Plans: Ruling Could Have Broader Implications,” *ECFC Flex Reporter*, March 2016.
- “Staying on the Compliance Track: The 2015 Health Benefits Year in Review,” *The Self Insurer*, February 2016.
- “IRS Guidance Creates New Burdens for Exchanges and Other Defined Contribution Health Care Arrangements,” *HealthCare Consumerism Outlook 2016*, Annual 2016.
- “EEOC’s Proposed Rules for Wellness Programs Under the Genetic Information Nondiscrimination Act (GINA),” *The Self Insurer*, January 2016.
- “New HSA Erroneous Contribution Guidance: A More Reasonable Approach to the Nonforfeiture Rule for HSA Contributions,” *ECFC Flex Reporter*, December 2015.
- “Staying on the Compliance Track: The 2015 Health Benefits Year in Review,” *ECFC Flex Reporter*, December 2015.

- “HIPAA Double Take: What Health Plan Sponsors Need to Know (Again),” *The Self Insurer*, November 2015.
- “The (Poorly Named) ‘Cadillac Tax’ Part Two: IRS Provides Further Guidance in Notice 2015-52,” *The Self-Insurer*, October 2015.
- “The Cadillac Tax Part One: The Potential Impact of the Tax on Account-Based Plans (FSAs, HRAs and HSAs),” *The Self Insurer*, September 2015.
- “The (Poorly Named) ‘Cadillac Tax’ Part Two: IRS Provides Further Guidance in Notice 2015-52,” *ECFC Flex Reporter*, September 2015.
- “A Supremely Busy Week: The Supreme Court Issues Two Rulings That Impact Health Plans,” *The Self Insurer*, August 2015.
- “IRS Notice 2015-17: Window Has Closed on Pre-Tax Funding for Individual Major Medical Policies for Employees,” *The Self Insurer*, July 2015.
- “IRS Notice 2015-17: Pardon for Employer Payment Plans? Or Just a Stay of Execution?” *ECFC Flex Reporter*, June 2015.
- “IRS Notice 2015-17: Pardon for Employer Payment Plans or Just a Stay of Execution?” *Bloomberg BNA Tax and Accounting Center*, April 2015.
- “IRS Notice 2015-17: Pardon for Employer Payment Plans or Just a Stay of Execution?” *Bloomberg BNA Pension & Benefits Daily*, March 17, 2015.
- “Notices of Employee Eligibility for Exchange Subsidies—What They Are and What You Should Do About Them,” *ECFC Flex Reporter*, March 2015.
- “Health Care Reform Litigation Update: SCOTUS Takes Another Look at the ACA; The House of Representatives Takes Aim at the President,” *The Self Insurer*, February 2015.
- “2014 Health Plan Sponsor Year End Checklist,” *The Self Insurer*, December 1, 2014.
- “Health and Welfare Plan Sponsor Affordable Care Act and 2014 Year End Checklist,” *ECFC Flex Reporter*, December 2014.
- “IRS Notice 2014-55 Allows New Health Coverage Election Changes,” *The Self Insurer*, November 3, 2014.
- “To Subsidize or Not to Subsidize - That Is the Question - How *Halbig* and *King* Affect Employer Requirements Under the Affordable Care Act,” *The Self Insurer*, September 2014.
- “ACA Administrative Simplification Provisions for Health Plans: Time to Apply for an HPID and Prepare for Certification of Compliance”, *The Self Insurer*, July 2014.
- “Agency Guidance Prohibits Pre-Tax Funding of Individual Medical Coverage for Active Employees,” *ECFC Flex Reporter*, June 2014.
- “ACA Administrative Simplification Provisions for Health Plans: Time to Apply for an HPID and Prepare for Certification of Compliance,” *ECFC Flex Reporter*, June 2014.
- “New EEOC Proposed Rules Require a Gut Check for Wellness Programs,” *The Self Insurer*, June 2015.
- “The Affordable Care Act and Account-Based Plans: Impact of the ACA on HRAs, FSAs, and HSAs,” *The Self Insurer*, April 2014.
- “Departments Issue New ACA FAQs on Preventive Services, Cost-Sharing Limits, Fixed Indemnity Insurance, Wellness Programs and Expatriate Health Plans,” *The Self Insurer*, March 2014.

- “Agency Guidance Strikes a Major Blow for Individual Policy Premium Reimbursement and Stand-Alone Health Reimbursement Arrangements,” *The Self Insurer*, February 2014.
- “Impact of Supreme Court Same Sex Marriage Ruling on Health Benefits: Part II,” *The Self Insurer*, January 2014.
- “Health Plans and the Requirement to Apply for a ‘HPID,’” *ECFC Flex Reporter*, September 2013.
- “Friday the 13th: Agencies Take a Chainsaw Approach to HRAs and Employer-Funded Individual Medical (IM) Coverage,” *ECFC Flex Reporter*, September 2013.
- “Private Exchanges and the Impact on Health Coverage,” *The Self Insurer*, August 2013.
- “IRS Issues Game-Changing Regulations Interpreting Health Care Reform’s Pay or Play Requirement,” *Benefits Law Journal*, Summer 2013.
- “A Look Ahead to Defined Contributions in Private Exchanges,” *Healthcare Consumerism Outlook 2013*, Annual Issue 2013.
- “CER Fees – Funding the Patient-Centered Outcomes Research Trust,” *The Self Insurer*, May 2013.
- “New HIPAA Omnibus Rule: Issues for Employer Plan Sponsors and Group Health Plans,” *The Self Insurer*, April 2013.
- “IRS Issues Game-Changing Regulations Interpreting Health Care Reform’s Pay or Play Requirement,” *ECFC Flex Reporter*, March 2013.
- “New HIPAA Omnibus Rule: Issues for Employer Plan Sponsors and Group Health Plans,” *ECFC Flex Reporter*, March 2013.
- “IRS Issues Game-Changing Regulations Interpreting Health Care Reform’s Pay or Play Requirement, Part Two,” *The Self Insurer*, March 2013.
- “Recent Proposed Regulations Modify Requirements for Employer Wellness Programs,” *Legal Affairs Bulletin* – BlueCross BlueShield Association, March 2013.
- “IRS Issues Game-Changing Regulations Interpreting Health Care Reform’s Pay or Play Requirement, Part One,” *The Self Insurer*, February 2013.
- “2012: The Year In Review (and then some),” *The Self Insurer*, January 2013.
- “New Guidance Regarding Employer Shared Responsibility Rules,” *ECFC Flex Reporter*, December 2012.
- “Final Regulations Impose Reinsurance ‘Contribution’ on Fully Insured and Self-Insured Plans Starting in 2014,” *The Self Insurer*, October 2012.
- “In Wake of Supreme Court Decision, ACA Creates New Opportunities, Obligations for Account-based Plans,” *HealthCare Consumerism Solutions*, July/August 2012.
- “In Wake of Supreme Court Decision, the Affordable Care Act Creates New Opportunities (and New Obligations) for Account Based Plans,” *The Self Insurer*, August 2012.
- “IRS Notice 2012-40 Provides Clarification With Regard to Health Care Reform’s \$2,500 Cap for Health FSA Salary Reductions,” *ECFC Flex Reporter*, June 2012.
- “The Supreme Court Decision on the Affordable Care Act - The Immediate Implications for Group Health Plans,” *ECFC Flex Reporter*, June 2012.
- “New Agency Guidance on Required Contraceptive Coverage under Group Health Plans,” *The Self Insurer*, June 2012.

- “Constitutional or Not: ACA Crates Turbulent Times for Account-based Plans,” *CDHC Solutions*, May/June 2012.
- “What’s Essential About ‘Essential Health Benefits’ – HHS Bulletin Creates Issues for All Group Health Plans,” *The Self Insurer*, March 2012.
- “Exploring Health Care Reform’s \$2500 Cap for Health FSA Salary Reductions,” *ECFC Flex Reporter*, March 2012.
- “New Guidance on Distribution of Medical Loss Ratio (MLR) Rebates Creates Issues for Group Health Plan Sponsors,” *ECFC Flex Reporter*, March 2012.
- “New Michigan Law Imposes a Tax on Claims Paid by Employer-Sponsored Health Plans,” *ECFC Flex Reporter*, March 2012.
- “When Is a Summary More Than a Summary, Part Two: Agencies Issue Final Guidance on the ACA’s Uniform Summary of Benefits and Coverage Requirement,” *ECFC Flex Reporter*, March 2012.
- “IRS Issues Additional Guidance on Form W-2 Reporting for Health Coverage Costs,” *The Self Insurer*, February 2012.
- “2011: Yet Another Busy Year for Health Plans and Other Welfare Plan Benefits,” *ECFC Flex Reporter*, December 2011.
- “PPACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: When Is a Summary More than a Summary: Agencies Issue Long-Awaited Guidance on the ACA’s Uniform Summary of Benefits and Coverage Requirement,” *The Self-Insurer*, October 2011.
- “Health Reform Update: New Fees for Group Health Plans Loom on the Horizon,” *ECFC Flex Reporter*, September 2011.
- “When Is a Summary More than a Summary: Agencies Issue Long-Awaited Guidance on the ACA’s Uniform Summary of Benefits and Coverage Requirement,” *ECFC Flex Reporter*, September 2011.
- “PPACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: New Claim Review Regulations Ease Compliance Burdens for Group Health Plans,” *The Self-Insurer*, August 2011.
- “PPACA, HIPAA and Federal Health Benefit Mandates: Practical Q&A: Court Decision Clears the Air (Somewhat) for Wellness Programs,” *The Self-Insurer*, July 2011.
- “Court Decision Clears the Air (Somewhat) for Wellness Programs,” *The Checkoff*, The Florida Bar Labor & Employment Law Section, July 2011.
- “Department of Labor Extends Enforcement Grace Period for Certain Internal Claims and Appeals Requirements,” *ECFC Flex Reporter*, June 2011.
- “ECFC Submits DOL Comments on Electronic Disclosure,” *ECFC Flex Reporter*, June 2011.

Presentations

- IBCN Health & Welfare Plan Call, December 11, 2017.
- “Block III, Health Care Reform and Other Health and Welfare Benefit Plan Issues,” The Certificate in Employee Benefits Seminar, Orlando, FL, July 17-21, 2017.
- “Block III, Health Care Reform and Other Health and Welfare Benefit Plan Issues,” The Certificate in Employee Benefits Law Seminar, Las Vegas, NV, May 1-5, 2017.

Professional & Community Engagement

- Fellow of the American College of Employee Benefits Counsel
- Employers Council on Flexible Compensation, board and Technical Advisory Committee (chair)

Education

- Emory University (J.D., 1989)
- Florida Atlantic University (B.A., 1986)

Admitted to Practice

- Georgia

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