



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

Highlights of the Month

1. Legislative Update for Retirement Plans
2. IRS to Review Part-Time, Temporary and Seasonal Exclusions in EGTRRA Determination Letter Requests
3. IRS Updates 2005-2006 Priority Guidance Plan
4. IRS Finalizes Changes to Regulations on QJSA and QPSA Explanations
5. FDIC Raises Insurance Coverage Limits for Retirement Accounts
6. Health Payments Must be Maintained for Workers on FMLA Leave
7. U.S. Supreme Court Hears Case Involving Subrogation
8. Factors to Consider When Analyzing Whether to Self Insure Medical Benefits
9. DOL Extends Sunset Date of Mental Health Parity Regulations

Legislative Update for Retirement Plans

As mentioned in our February 2006 edition of the Newsletter, there is hope that the Conference Committee will complete the bill on pension funding reform this month. The three major issues facing the Conference Committee involve credit condition, cash balance plans and advice.

- ◆ **Credit Condition:** the Administration feels strongly that credit condition should be an element of the calculation of a sponsor's funding obligation. The Senate proposal requires a different liability calculation for financially weak companies with plan funding ratios less than 93 percent. The House has no such provision and instead provides for writing up liabilities if a plan's funding ratio is less than 60 percent. More than likely the bill will contain a compromise taking into account the financial condition of the company but lowering the 93 percent trigger.
- ◆ **Cash Balance Plans:** The House bill is opposed to conversion mandates and includes language that "legalizes" cash balance plans prospectively and has language in the legislative history that is generally regarded as favorable to plan sponsors. The Senate bill also prospectively "legalizes" cash balance plans but includes "no inference" language. The Senate bill also imposes mandates on future cash balance plan conversions such as the preservation of 5 years of old plan benefits to participants in the plan at the time of conversion and a 3 year vesting schedule for



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

cash balance accruals. A decision in the IBM case while the legislation is being considered would certainly cause a great deal of conflict.

- ◆ **Advice:** The House bill allows affiliates of funds offered under a plan to give advice to participants on which funds to invest in. The Senate bill does nothing for fund affiliates and clarifies (and some believe reduces) the fiduciary exposure of sponsors using unaffiliated advisors.

IRS to Review Part-Time, Temporary and Seasonal Exclusions in EGTRRA Determination Letter Requests

IRS issued instructions to its specialists that retirement plans which exclude part-time, temporary and seasonal employees may impose an indirect service requirement that violates the Section 410(a) of the Internal Revenue Code (the “Code”). Code Section 410(a) generally prohibits plans from imposing a service requirement of more than one year of service which is defined as 1000 hours in a twelve month period. These instructions were issued in the form of a Quality Assurance Bulletin (QAB) (http://www.irs.gov/pub/irs-tege/qab_021406.pdf) to specialists as they begin reviewing applications for pre-approved and individually designed plans under EGTRRA.

The QAB instructs the specialists to require plans to remove or clarify an exclusion classification that is defined by reference to service if the classification could result in the exclusion of employees who have completed a year of service. The QAB further states that “specialists should take note that the issue of whether a plan is providing a direct or indirect service requirement is not limited to part-time or seasonal employees. Any exclusion classification, whether it be part-time, seasonal, temporary, or any other classification of employees should be closely scrutinized [and] clearly defined.”

The QAB contained three examples of plan provisions that could violate Code Section 410(a). These examples are:

Example 1: Part-Time and Seasonal. Plan A and Plan B exclude employees classified as part-time or seasonal. Plan A defines “part-time or seasonal” as employees who work less than 1,000 hours in an eligibility computation period. Therefore, Plan A complies with Code Section 410(a) in form. Plan B defines “part-time or seasonal” as employees who are scheduled to work fewer than 1,000 hours in a year. Because an employee who is scheduled to work fewer than 1,000 hours in a year may actually exceed 1,000 hours and still be excluded, the exclusion could violate Code Section 410(a). The QAB provides that Plan B would have to be amended to include “fail-safe” language, providing



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

that any employee who completes at least 1,000 hours in an eligibility computation period would be eligible.

Example 2: Hourly paid. Plan C excludes hourly paid employees and defines “hourly paid” as employees who receive an hourly wage for their services. The QAB states that this classification is based on a job classification without reference to service so, in form, it does not violate Code Section 410(a). But the QAB notes that if the definition of “hourly paid” included the phrase “whose customary employment is not more than 20 hours per week,” the language could result in the plan improperly excluding an employee that worked more than 1,000 hours, and so it would require a corrective amendment.

Example 3: Undefined Class. Plan D excludes Class B employees. The QAB states that the reviewer should challenge and scrutinize this exclusion to determine whether it is based on an age and service requirement that could violate Code section 410(a). In the example, the exclusion is amended to define a Class B employee as any employee who is a member of a substitute workforce. Plan D, as amended, complies with Code Section 410(a) in form; the exclusion is based on the availability of work, not hours of service.

The issuance of the QAB continues to highlight the IRS’s concern about the exclusion of part-time, seasonal and temporary employees from plan eligibility as an indirect service requirement that does not comply with the provisions of Code Section 410(a).

IRS Updates 2005-2006 Priority Guidance Plan

On March 6, 2006 IRS updated its Priority Guidance Plan for 2005-2006. The 2005-2006 Priority Guidance Plan which was released on August 8, 2005 listed 45 pension and benefits projects for the plan year beginning July 1, 2005 and ending June 30, 2006. The recently issued update included 13 items of additional guidance on pension and benefits. Some of the additional 13 items have already been published.

Retirement Benefits: The original plan contained 24 guidance plan projects that relate to retirement benefits. This update shows that 7 of the 24 original projects have been published and nine new projects have been added to the list. Published guidance is shown in italics.

1. Tax treatment of distributions from Roth retirement plans. *Published as Notice of Proposed Rule Making (NPRM) REG- 146459-05.*
2. Final regulations on compliance with restrictions on in-service distributions from pension plans and related topics in conjunction with phased retirement arrangements. Proposed regulations were published on November 10, 2004.



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

3. Final regulations on transmission of notices to participants through electronic means with respect to distributions from qualified retirement plans. Proposed regulations were published on July 14, 2005.
4. Revenue procedure amending and restating the Employee Plans Compliance Resolution System (EPCRS).
5. Guidance on benefits not permitted in a defined benefit plan.
6. Guidance on abusive arrangements under Code Section 401(a)(4).
7. Revenue Procedure implementing the staggered remedial amendment procedures for determination letters. ***Published as Revenue Procedure 2005-66, 2005-37 IRB.***
8. Final regulations setting forth the definition and requirements for designated Roth contribution to a Code Section 401(k) plan. ***Published as TD 9237, 12/30/2005. Proposed regulations were published on March 2, 2005.***
9. Final regulations under Code Section 402 on the valuation of life insurance distributed from qualified plans. ***Published as TD 9223, 8/26/2005.***
10. Comprehensive final regulations under Code Section 403(b) regarding tax sheltered annuities purchased by Code Section 501(c)(3) organizations or public schools. Proposed regulations were published on November 16, 2004.
11. Guidance on the deduction of foreign-sourced dividends by a U.S. subsidiary under Code Section 404(k).
12. Guidance under Code Section 408A on annuity valuation issues in conversions from a traditional IRA to a Roth IRA. ***Published as Revenue Procedure 2006-13, 2006-3 IRB.***
13. Guidance on consistency between tax benefit to employer and allocations to participants in employee stock ownership plans (ESOPs).
14. Final regulations under Code Section 409(p) with respect to synthetic equity and additional issues relating to ESOPs maintained by S Corporations. Temporary regulations were published on December 17, 2004.
15. Final regulations under Code Section 410(b) on the exclusion of employees of Code Section 501(c)(3) organizations. Proposed regulations were published on March 16, 2004.
16. Guidance under Code Section 411 regarding accrual and vesting of benefits provided pursuant to qualified retirement plans.
17. Regulations under Code Section 411(d)(6) relating to the elimination of optional forms of benefit in defined benefit plans and additional issues.
18. Proposed regulations updating the mortality tables used to determine current liability under Code Section 412(l). ***Published as NPRM REG-124988-05.***
19. Guidance under Code Section 414(h)(1) as to what constitutes a designation by a governmental unit.



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

20. Update of the regulations on the definition of “highly compensated employee” under Code Section 414(q) to reflect statutory changes since the existing regulations were issued.
21. Comprehensive final regulations regarding the limitations on benefits and contributions under Code Section 415. Proposed regulations were published on May 31, 2005.
22. Final regulations under Code Section 417 on the relative value of optional forms of benefit. Proposed regulations were published on January 28, 2005.
23. Guidance under Code Section 420 on the impact of the Medicare prescription drug subsidy on the minimum cost requirement. ***Published as Revenue Ruling 2005-60, 2005-37 IRB.***
24. Guidance on determining the “amount involved” for purposes of calculating the applicable excise tax under Code Section 4975 for failure to remit employee contributions in a timely manner.

The current update also included the following nine items that were added to the list and guidance for all of these items has been issued.

25. Notice on pension funding relief for Hurricane Katrina. ***Published as Notice 2005-60, 2005-39 IRB.***
26. Notice extending pension funding relief for Hurricane Katrina. ***Published as Notice 2005-84, 2005-46 IRB.***
27. Announcement on hardship distributions and loans from retirement plans as a result of Hurricane Katrina. ***Published as Announcement 2005-70, 2005-40 IRB.***
28. Notice providing guidance on sections 101 and 103 of the Katrina Emergency Tax Relief Act of 2005. ***Published as Notice 2005-92, 2005-51 IRB.***
29. Notice on the Code Section 415 grandfather rule for preexisting benefits in defined benefit plans. ***Published as Notice 2005-87, 2005-50 IRB.***
30. Notice regarding transitional relief relating to plan amendment timing. ***Published as Notice 2005-95, 2005-51 IRB.***
31. Notice containing the 2005 cumulative list of changes in plan qualification requirements. ***Published as Notice 2005-101, 2005-52 IRB.***
32. Revenue procedure extending the date by which a plan must be in operational compliance with a reforming amendment to be eligible for certain treatment described in section 3.02 of Revenue Procedure 2005-23. ***Published as Revenue Procedure 2005-76, 2005-50 IRB.***
33. Proposed regulations on the requirements for designated Roth contributions under Code Section 403(b) plan. ***Published as NPRM REG-146459-05.***



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

Executive compensation, healthcare and other benefits: IRS had twenty one items relating to executive compensation, healthcare and other benefits on the guidance list. Five of those items have been published and four new projects have been added to the list.

1. Guidance on the tax treatment of beneficiaries of nonexempt trusts described in Code Section 402(b)(4).
2. Modification of Treasury Regulations Section 1.61-21(g) consistency rule in connection with Code Section 274(e)(2) guidance.
3. Guidance on accountable plans and per diem payments.
4. Revenue ruling on post-grant restriction on stock.
5. Guidance on the revocation of Code Section 83(b) elections.
6. Additional guidance on debit cards in employer provided medical expense reimbursements.
7. Guidance on the impact of providing 2 ½ month grace period for dependent care assistance offered under a cafeteria plan. **Published as Notice 2005-61, 2005-39 IRB.**
8. Proposed regulations on cafeteria plans under Code Section 125 updating regulations for statutory changes and providing additional guidance.
9. Guidance under Code Section 132 on debit cards and qualified transportation fringes.
10. Guidance on the impact of providing a 2 ½ month grace period for flexible spending accounts (FSAs) on health savings accounts (HSAs). **Published as Notice 2005-86, 2005-50 IRB.**
11. Guidance on the application of the “In which or with which ends” rule in Treasury Regulations Section 1.404(a)-12(b).
12. Proposed regulations addressing numerous issues with respect to the taxation of nonqualified deferred compensation under Code Section 409A as added by the American Jobs Creation Act of 2004. **Published as NPRM REG-158080-04. Interim guidance was issued as Notice 2005-1.**
13. Guidance under Code Section 419 on deductions for contributions to a welfare benefit fund.
14. Guidance on the application of the Self Employment Contributions Act (SECA) to Conservation Reserve Program payments.
15. Guidance on tips paid to restaurant employees.
16. Final regulations under Code Section 3121 regarding the definition of a salary reduction agreement. Temporary regulations were published on November 16, 2004.



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

17. Update of the regulations on withholding for domestic workers to reflect statutory changes since the existing regulations were issued. **Published as NPRM REG-104143-05.**
18. Final regulations under Code Section 3121(a)(2)(A) with respect to payments made on account of sickness or accident disability under a workers' compensation law. Published as TD 9233, 12/15/2005. Proposed regulations were issued on March 11, 2005.
19. Final regulations on flat rate supplemental wage withholding. Proposed regulations were published on January 5, 2005.
20. Final regulations under Code Section 3402(f) relating to Form W-4. Temporary regulations were published on April 14, 2005.
21. Regulations under Code Section 4980G on employer comparable contributions to HSAs.

The IRS added the following projects that impact executive compensation, healthcare and other benefits to the priority guidance list. Three of the new items have been published.

22. Notice on suspension of employer and payer reporting and wage withholding requirements with respect to deferrals of compensation under Code Section 409A for calendar year 2005. **Published as Notice 2005-94, 2005-52 IRB.**
23. Notice on HSAs and state mandates. **Published as Notice 2005-83, 2005-49 IRB.**
24. Notice regarding withholding on wages of nonresident alien employees performing services within the U.S. **Published as Notice 2005-76, 2005-46 IRB.**
25. Guidance under Code Section 409A regarding technical correction in the Gulf Opportunity Zone Act of 2005.

Copies of the complete Priority Guidance List can be obtained from the IRS website at <http://www.irs.gov> under Tax Professionals, IRS Resources, Administrative Information and Resources, 2005-2006 Priority Guidance Plan or by calling the Treasury Department's Office of Public Affairs at 202-622-2960.

IRS Finalizes Changes to Regulations on QJSA and QPSA Explanations

The IRS issued final regulations on required explanations of qualified joint and survivor annuities (QJSA) and qualified preretirement survivor annuities (QPSA) payable under retirement plans on March 23, 2006. These final regulations adopt with some modifications the proposed reliance regulations that were issued on January 28, 2005.



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

The final regulations generally require reasonable, good faith compliance with the relative value disclosure regulations for QJSA explanations before January 1, 2007. This good faith standard does not apply with respect to certain forms of optional benefit payments, e.g., lump sums, which are less valuable than the QJSA. For the less valuable forms of benefit payments, the relative value disclosure regulations were effective for annuity starting dates on or after October 1, 2004.

Like the 2005 proposed reliance regulations, the 2006 final regulations include a special rule enabling the plans to use the February 1, 2006 compliance date even if there are minor differences between the value of an optional form and the value of the QJSA for a married participant that are caused by the calculation of the amount of the optional form of benefit based on a life annuity rather than on the QJSA.

Also like the 2005 regulations, the final regulations clarify that the plans using the generalized notice method of disclosure can use reasonable estimates to determine the amount of the normal form of benefit available to a participant as long as the plan follows the requirements applicable to reasonable estimates that are used in disclosing participant-specific information. For example, upon a participant's request, the plan would have to provide a more precise calculation and revise previously offered information consistent with the more precise information. Additionally, the final regulations clarify that a QJSA explanation does not fail to satisfy the requirements for QJSA explanations using generally applicable information merely because the QJSA explanation contains an item of participant-specific information in place of the corresponding generally applicable information.

Key Differences: There are a number of key differences between the 2005 proposed regulations and the 2006 final regulations. One of the major differences was to exclude from the final regulations a list of examples of optional forms of benefit that the IRS believes are subject to Code Section 417(e)(3) minimum present value requirements. The list was originally included in the 2005 proposed regulations to clarify the IRS's view as to which optional forms of benefit, if less valuable than the QJSA, were not eligible for the delayed effective date of February 1, 2006.

Several comments received on the proposed regulations took exception to the IRS's decision to include a social security level income option on the list. The preamble to the final regulations addresses this issue by including a definition of a social security level income option in the preamble. The preamble to the final regulations defines a social security level income option as "the payment of a participant's benefit in the form of an annuity with larger payments in earlier years before an assumed social security commencement age to provide the participant with approximately level retirement



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

income when the assumed social security payments are taken into account.” The preamble to the final regulations makes it clear that the IRS continues to believe that the social security level income option is subject to Code Section 417(e)(3) which is contrary to the point made by the commentators on the proposed regulations.

The final regulations also address the following issues that were not addressed by the 2005 proposed regulations.

1. Clarify which optional forms of benefit that are available with retroactive annuity starting dates must be covered in a QJSA explanation;
2. Clarify that the disclosure of the financial effect of an optional form of benefit (including a benefit available with a retroactive annuity starting date) must describe the amounts and timing of payments to the participant under the form of benefit during the participant’s lifetime, and the amounts and timing of payments after the death of the participant;
3. Provide that any optional forms of benefit that are at least 95% but not greater than 105% of the actuarial present value of the QJSA may be disclosed as approximately equal in value to the QJSA; and
4. Permit simplified presentations of financial effect and relative value for a plan that offers a significant number of substantially similar optional forms of benefit. A classic example would be a plan that offers joint and survivor annuity options with survivor payments available in all whole number percentages between 50 and 100 percent. Under the simplified presentation rules, a representative range of examples might include disclosing the relative value and financial effect with respect to the joint and 50% survivor annuity option, the joint and 70% survivor annuity option, and the joint and 100% survivor annuity option.

Effective Date: In the case of lump sums and other optional forms of benefit that are subject to Code Section 417(e)(3) that are less valuable than the QJSA, the relative value disclosure requirements apply for QJSA explanation provided with respect to annuity starting dates on or after October 1, 2004. For all other optional forms of benefit, the relative value disclosure requirements (as modified by the final regulations) apply to QJSA explanations with respect to any distribution with an annuity starting date that is on or after February 1, 2006.



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

FDIC Raises Insurance Coverage Limit for Retirement Accounts

The Federal Deposit Insurance Corporation (FDIC) approved final rules that raise the deposit insurance coverage on certain retirement accounts at banks and savings institutions from \$100,000 to \$250,000. These rules are effective April 1, 2006. The new insurance limits apply to traditional Individual Retirement Accounts (IRAs), Roth IRAs, self-directed Keogh accounts, 457 plan accounts for state and local government employees, and employer-sponsored defined contribution accounts that are self-directed which are primarily 401(k) accounts.

Additionally, the new regulations provide that these retirement accounts are insured separately from other accounts at the same institution which continue to be insured up to at least \$100,000. These new rules also establish a method by which the FDIC will consider an increase in the insurance limits on all deposit accounts (including retirement accounts) in the future. However, an increase will only be considered every five years with the first such consideration in 2011.

Health Payments Must be Maintained for Workers on FMLA Leave

The Employment Standards Administration (ESA) of the U.S. Department of Labor issued an advisory opinion on January 31, 2006 which deals with level of healthcare coverage that must be made available to employees on leave under the Family and Medical Leave Act (FMLA). ESA concluded that an employer cannot force a worker on FMLA leave to pay more for coverage than he/she would have paid if he/she had not taken the leave.

Under the facts described in the advisory opinion the employer provided a fixed monthly amount (called an “allotment”) to employees who were participating in the employer’s cafeteria plan. The employees who participated in the cafeteria plan then used the allotment to pay premiums for group health coverage. If the employees had any amounts remaining after the payment of the group health insurance premiums, the employees could apply those amounts to the cost of dental, disability, or life insurance coverage or to receive that amount in cash.

The advisory opinion stated that the requirement to provide group health coverage applied whether or not the coverage was provided through a flexible spending account or other component of a cafeteria plan. The advisory opinion concluded that employees taking unpaid FMLA leave “must have that portion of their cafeteria plan allotment allocated to group health insurance (including dental) premiums paid by the [employer] in the same amount as paid prior to the start of FMLA leave.” In addition, ESA



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

concluded that because the employer paid for group health insurance coverage while the employees were working, it could not recover such payments from its employees when they returned to work after FMLA leave.

U.S. Supreme Court Hears Case Involving Subrogation

On March 28th the U.S. Supreme Court heard arguments in *Sereboff v. Mid Atlantic Medical Services, Inc. (05-260)*. *Sereboff* tests whether a health insurer can assert the right of subrogation to collect accident-related damages paid to a health plan participant by a third party. The decision in this case is important since if the insurer loses, the result may very well be higher health insurance premiums and fewer employers offering coverage.

Two employees of Mid Atlantic Medical Services (MAMSI) were enrolled in the company's self-insured medical plan. The plan documents for the medical plan stated that if any participants in the plan recovered damages resulting from an accident, "all recoveries from a third party must be used to reimburse the company [i.e., MAMSI]."

The Sereboffs were involved in an auto accident in June 2000. MAMSI paid approximately \$75,000 in medical costs that were related to the accident. The Sereboffs sued the driver of the other auto that was involved in the accident and won \$750,000 in a personal injury case in California state court. MAMSI contacted the Sereboffs after the decision was rendered and requested reimbursement for the \$75,000 that was paid by MAMSI's medical plan. The Sereboffs refused to reimburse the plan and MAMSI filed suit in federal court seeking reimbursement.

The U.S. District Court and the Fourth Circuit Court of Appeals agreed with MAMSI and ordered the Sereboffs to repay the insurer. The Sereboffs appealed to the U.S. Supreme Court in 2005. The Sereboffs contend that the Employee Retirement Income Security Act (ERISA) allows plan administrators to sue plan beneficiaries for "equitable relief" but does not allow for the recovery of money damages. MAMSI argued in its brief that earlier Supreme Court rulings held that plan fiduciaries could impose a lien on an enrollee's property that belongs "in good conscience to the claimant."



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

Factors to Consider When Analyzing Whether to Self Insure Medical Benefits

Your company has grown over the past years and now you are wondering whether it makes sense to self-insure your health plan. The answer to this question is based primarily on the size of your workforce. The size of your workforce is important since you need a creditable risk pool in order to self-insure. However, there are other significant pros and cons that should be weighed in making this decision.

Large companies that operate in multiple states and that want to provide uniform health benefits are good candidates for self-insuring. A self-insured plan does not have to comply with state mandated health insurance coverage. States commonly mandate certain coverage levels for mammograms, contraceptives, mental health services, cancer therapies, alcoholism treatments or diabetic supplies.

Another benefit of self-insuring is keeping the cost-savings within the company rather than with the insurer and its profit margin. The main downside of self-insuring is the assumption of risk for unpredictable medical claims which may lead to cash flow concerns. This risk can be mitigated by the purchase of stop-loss insurance. In addition, you may lose some discounts that insurers are able to arrange with providers. The following is a list of the pros and cons of self-insuring.

Pros

1. Having total control of plan design including networks;
2. Avoiding state mandated coverages;
3. Not having to pay state premium taxes;
4. Control over health plan funding and maximizing interest income;
5. Streamlined decision making for the plan;
6. Keeping savings within the company and not with the insurer
7. Not contributing toward an insurer's risk charges, retention charges and profit margin; and
8. Making premium payments based on your employees' claim histories and not those of a larger pool

Cons

1. Plan management requires additional time;
2. The company assumes the risk for medical claims;
3. Potential cash flow issues since medical claims are somewhat unpredictable;



Let us help you manage your benefits cost and risk.

Monthly Newsletter – Volume 2, No. 4 – April 5, 2006

4. Additional focus on compliance responsibilities under federal laws, e.g., HIPAA; and
5. Potentially less competitive payment arrangements with physicians and hospitals.

DOL Extends Sunset Date of Mental Health Parity Regulations

The DOL has amended its interim final regulations under the Mental Health Parity Act (MHPA) to extend the date on which the regulations cease to apply from December 31, 2005 to December 31, 2006. This change makes the sunset date under the regulations consistent with the sunset date of ERISA's MHPA provisions.