



October 2013 Newsletter

October Meeting

Wednesday,
October 9th
Garden Plaza Inn

\$12.00

11:30am — 1:00pm

Networking will begin at 11:30 a.m. and the program will start at noon. We will eat from the buffet.

For reservations,
contact

Amy Smith at
Amy.Smith@delmonte.com
or 256-552-7470

We want to make
sure we have
plenty of room
for everyone.

Please RSVP by noon
Tuesday,
October 8th.



August Meeting

Wednesday, October 9th

Our speaker: Derek Heap from
Sterling Financial Group

**"Understanding Fiduciary Responsibilities
In Human Resources"*



Derek M. Heap is a member of his local chapter and a member of the National SHRM organization with over 10 years of experience retirement plan design, regulation and compliance. Attending conferences and workshops through the year to stay current with the changing requirements under ERISA (Employee Retirement Income Security Act of 1974), he is a frequent speaker on the topic of Fiduciary Standard. Mr. Heap is licensed as a General Securities Representative, Group Life and Health Insurance Principal, General Studies Principal, Uniform State Law, and as a Registered Investment Advisor.

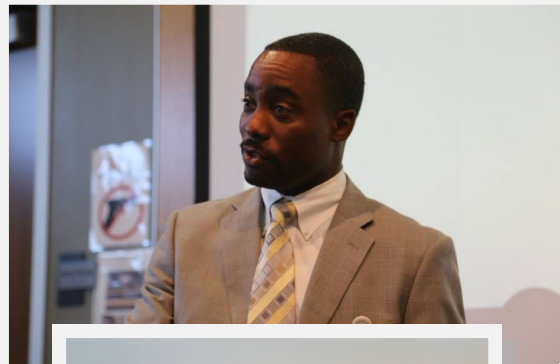
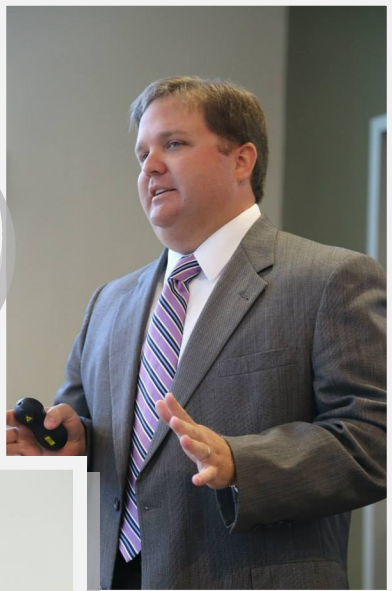
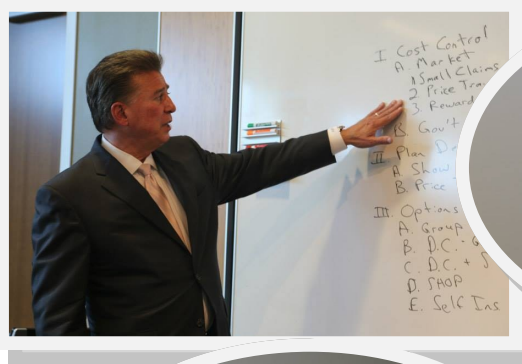
Thanks to our October Meeting Sponsor:



Would your company like to sponsor a meeting? The cost is only \$100 and is a great advertising opportunity. Please contact Linda Robinson or Taylor Simmons if your company would like to sponsor a chapter meeting.

TVC SHRM 2013 Fall Workshop

The 2013 TVC-SHRM Fall Workshop was held at Calhoun Robotics Center on Wednesday, September the 18th. The focus of this year's conference was "Health Care Reform". The event featured 5 different speakers on the topic, all HRCI credit approved. Below are some of the photos from the workshop.



Legal Matters

Courtesy of Lehr, Middlebrooks and Vreeland, P.C.

New Federal Guidance Says No Penalty for Employer Failure to Issue Exchange Notices

On 09-11-13, The Department of Labor (DOL) released a statement on its website that contained frequently asked questions to address employer concerns about potential penalties for failure to issue exchange notices to employees on October 1, 2013, as required by the Affordable Care Act (ACA) and implementing regulations. For the first time, DOL said there was no penalty for employers who fail to comply.

The consensus view among our benefits attorneys and benefits professionals nationwide had been that ACA's general penalties of \$100 per day, per violation, could apply to the exchange notice obligation because the obligation to issue notices flowed through ACA. Since the notice obligation itself, however, was an addition to the Fair Labor Standards Act, that consensus view had always been less than certain.

The text of DOL's FAQ follows:

FAQ on Notice of Coverage Options

Q: Can an employer be fined for failing to provide employees with notice about the Affordable Care Act's new Health Insurance Marketplace?

A: No. If your company is covered by the Fair Labor Standards Act, it should provide a written notice to its employees about the Health Insurance Marketplace by October 1, 2013, but there is no fine or penalty under the law for failing to provide the notice.

The notice should inform employees:

- About the Health Insurance Marketplace;
- That, depending on their income and what coverage may be offered by the employer, they may be able to get lower cost private insurance in the Marketplace; and
- That if they buy insurance through the Marketplace, they may lose the employer contribution (if any) to their health benefits

The U.S. Department of Labor has two model notices to help employers comply. There is one model for employers who do not offer a health plan and another model for employers who offer a health plan for some or all employees:

These notices are available at <http://www.dol.gov/ebsa/healthreform/>. Employers may use one of these models, as applicable, or a modified version.

Although DOL's FAQ clearly states there is no penalty for an employer's failure to issue exchange notices, we caution against reliance on the FAQ. We have broader concerns about the risks to employers who fail to distribute exchange notices. For employers who sponsor group health insurance plans, distribution of the exchange notices to employees eligible for the plan could be viewed as part of those employers' fiduciary duties mandated under the Employee Retirement Income Security Act (ERISA), because the information contained in the notice may help advise employees of the various options for obtaining coverage suitable to their needs. We continue to hear that the plaintiffs' bar has a significant interest in testing new theories of liability created by ACA obligations. We expect much of the early litigation to arise under novel ERISA claims. Employers who remain averse to these risks are probably best advised to stay the course and issue exchange notices regardless of DOL's statement that there will be no penalty.

Also, many employers have implemented an ACA compliance strategy that is designed to encourage employees to seek coverage through the exchange. For these employers, the absence of an agency penalty is probably welcomed news, but still no reason to deviate from communicating about exchange options where that communication is necessary to achieve your overall ACA compliance strategy.

DOL's FAQ may be the best news for small employers and employers who do not offer health insurance coverage. If you fall into these categories, certainly DOL's FAQ gives you a practical reason not to issue exchange notices which may be burdensome and expensive to issue, and could only complicate employee relations or cause greater confusion.

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TVC-SHRM Table at the 2013 Decatur Morgan County Chamber Diversity Banquet



Want a free lunch in 2014?

Please note that, beginning with the January 2014 chapter meeting, the cost of lunch will increase to \$15 per person with our move to the Decatur Country Club. Because renewals will be sent out in November, you can actually pre-pay for your lunches AND save some money for 2014. All members who pre-pay for their lunches for the year will receive a discount and receive one meal for free! Pre-paying is worry free and allows you to get through registration faster. It also eliminates having to keep up with receipts and expensing out your lunch. More info will be included with your membership renewal notices.

Save the Date! Upcoming Events

- **November 21-23rd-SHRM Leadership Conference** in Washington, DC
- **December 11th-Annual TVC-SHRM Holiday party.** Wintzell's Oyster House in Decatur (on the Beltline). More details to come.
- **Every 1st Wednesday-Workforce Coalition meeting** at The Chamber of Commerce (Contact Mary Ila Ward at miw@mceda.org for more info)

Please contact Amy Smith at Amy.Smith@delmonte.com if you have an upcoming event that you would like to add.

Next month's meeting will be our annual fall legislative meeting. The meeting will be held on Friday, November 15th –which is a different day than our normal meeting date. The meeting will be held at Garden Plaza Inn in Decatur.

Hope to see everyone there!



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