



Ideas and Information for Human Resources Professionals

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## Health Care Costs

### Employers Save Money By Giving It Away

As health care costs continue to climb, some employers are taking a novel approach to saving money: They're spending more.

These companies are offering cash incentives and adjustments to health premiums in the hopes of boosting preventive care, which they hope will translate into big health care savings.

One approach involves eliminating copayments on some prescription drugs for chronic conditions, such as asthma, diabetes, high cholesterol and high blood pressure.

Many companies that have tried this tactic swear by it. Now, more employers are starting to experiment with their prescription copayments. A recent industry study notes that the number of employers waiving drug copayments for maintenance drugs for chronic conditions increased to 18 percent in 2009, compared with 11 percent in 2007. Dr. Kevin Volpp, director of the University of Pennsylvania's Center for Health Incentives, told *CFO.com* that this "explosion of interest" is clearly fueled by concerns about rising health care costs.

Midwest Business Group on Health (MBGH), a

## In This Edition

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## In Brief

### PPACA NOTES

Federal agencies recently released a series of regulations and decisions related to the Patient Protection and Affordable Care Act. They include:

#### Tax credit for small businesses:

The IRS recently clarified that the small-business tax credit applies to a broad range of employers, including those who pay for a portion of their workers' health coverage through a wide range of contribution arrangements, religious groups that provide coverage through denominational organizations, and certain employers who provide coverage through multiemployer plans.

**Medical loss ratio:** The Department of Health and Human Services has approved a new rule that states that

consortium that purchases health care benefits for 100 large employers, offers a program that eliminates copayments for diabetes drugs. Larry S. Boress, the consortium's CEO, said participant companies can save up to \$3,000 per patient annually because the no-copay arrangement encourages better drug compliance, which reduces the risk of expensive hospital stays.

Despite those savings, Boress said tweaking the copayments still doesn't go far enough in boosting drug adherence. So MBGH gives patients access to a diabetes "coach" to help them manage the disease. Employees who don't keep in touch with their coach must go back to making copayments for their drugs.

Other employers are taking an even more direct route and are doling out cash to employees who change their lifestyle. These companies offer cash rebates or reduced medical premiums to convince workers to stop smoking, lose weight and live healthier, according to a report in *The Washington Post*. For instance, Safeway offers a medical premium discount to nonsmoking employees who meet certain targets for weight, blood pressure and cholesterol levels. After instituting the plan, the rates of obesity and smoking among Safeway employees have dropped below national averages, the company said.

Considering that bad health behaviors account for as much as 40 percent of all disease and premature death in the U.S., employers are wise to do all they can to improve their workers' health, the University of Pennsylvania's Volpp noted.

Monetary and premium incentives "can not only help you reduce future health care costs, but also improve the health and productivity of your employees," he said.

Employers, however, expect results for their cash. A recent Towers Watson survey found that 65 percent of polled midsize employers expect to offer wellness incentives in 2011. But 62 percent said that in 2012 they'll only pay up if they see positive results from participants, according to a report in the *Los Angeles Times*.

insurers of individual and small group plans must spend at least 80 percent of their revenue on direct medical care. Larger plans (50 or more participants) must spend 85 percent on medical care. The rule might make millions of Americans eligible for rebates starting in 2012.

**Grandfathered plans:** Federal agencies in November announced that employers who switch insurance carriers won't necessarily lose grandfathered status for their group health care plans. Forcing an employer to stick with a carrier to maintain grandfathered status for a health care plan would give the insurer an unfair advantage, the agencies said. Self-insured employers also can change administrators without automatically losing grandfathered status.

### **2011 MILEAGE RATES**

The IRS has issued the optional standard mileage rates for motor vehicles in 2011. These rates are used to calculate the deductible cost for operating a car or truck. The rates will be 51 cents per mile for business purposes, 19 cents per mile for medical or moving purposes, and 14 cents per mile driven in service of charitable organizations.

### **STILL NEED TO SAVE**

Despite some savings from recent health care reform, employees still need to save a significant amount of money to ensure they can cover health care expenses in retirement, a new Employee Benefit Research Institute (EBRI) study finds. The research notes that a 65-year-old man retiring in 2010 will need from \$65,000 to \$109,000 to give him a 50 percent chance of covering all health premiums and out-of-pocket expenses in retirement. To increase his chances to 90 percent, he would need between \$124,000 and \$211,000, the EBRI study finds. Because women have a longer lifespan, they must have even more stashed away - between

## **Retention**

### **In 2011, Resolve To Keep Top Talent**

The New Year is a perfect time to shake off old habits, refocus and make a fresh start. For employers who want to remain successful in 2011, that means making a resolution to revisit their workforce retention strategies, experts say.

While the country still struggles with a weak economic recovery, several signs point to improvements in the labor market. The Society for Human Resource Management expects December 2010 hiring by manufacturing and service industries to increase for the 14th straight month. While it is doubtful that this increase will make a big impact on the national unemployment rate (9.3 percent as of November 2010), the Leading Indicators of National Employment (LINE) report suggests that the hiring environment is continuing to improve.

A stronger wave of seasonal hires likely will contribute to that trend. Chicago-based Challenger Gray & Christmas reports that the holiday hiring trend for 2010 was the strongest since 2006, according to *Human Resource Executive Online*.

Even more telling, the LINE report finds that salaries for new hires are higher compared with November 2009 figures.

All this positive economic news bodes well for employers and employees alike. However, experts say many employees are eager to make their own fresh start in the New Year -- by finding a new job.

"Disengagement is higher than ever, historically," Joy Kosta of the Human Capital Institute told *Employee Benefit News*. "Some people, if they can, spend up to 50 percent of their time looking for another job."

That disengagement stems from several years of layoffs, salary freezes and benefit cuts. With the job market improving, some experts see a mass exodus by top performers who are fed up and burned out.

"Even though boomers have postponed retirement and everyone across generations is holding on to their jobs for economic security, those retained have been asked to do four or five jobs," Kosta said. "The expression we've heard repeatedly is 'working like a water bug' because all they can do at best is skim the surface of what they've been asked to do. When the economy improves and people can make a change, they will."

So what can employers do? For starters, they can provide strong leadership and make an extra effort to let their employees know they are appreciated.

"The top retention driver isn't necessarily salary," said Lauren Herring, president and CEO of IMPACT Group,

\$88,000 and \$146,000 for a 50-50 chance of covering all health expenses in retirement (between \$143,000 and \$242,000 for a 90 percent chance).

### **A LITTLE WEIGHT, A LOT OF TROUBLE**

Even a few extra pounds can translate into health troubles, according to new research by the American Cancer Society. The study of 1.5 million people found that healthy white adults who were overweight (but not obese) were 13 percent more likely to die during the time they were followed in the study than those whose weight was in the ideal range. Two-thirds of U.S. adults are either overweight or obese, according to a report by *The Associated Press*.

### **SOCIAL MEDIA SWAMP**

The flurry of social media outlets can leave employees "scattered and disoriented," according to a new report by People-OnTheGo, which provides training on social media. While people are spending more than an average of 4.5 hours daily on social media sites and email, social media "is misused and contributing little to productivity," researchers said. Thirty-nine percent of respondents said they use social media at work for personal reasons more than for work-related tasks.

### **EEOC CHARGES**

The Equal Employment Opportunity Commission (EEOC) received a record number of charges by workers in fiscal year 2010. The commission took in 100,000 new private-sector discrimination charges, an increase of 7 percent from 2009, the EEOC reported. The jump follows a slight decline in 2009, when totals fell 2.2 percent from fiscal year 2008. In a report, the EEOC attributed this year's increase to the expanded authorities of the EEOC under several new labor-related laws, including the ADA Amendments Act of 2008.

who cites a recent survey by her organization that found that an inspirational manager, advancement opportunities and a company's good reputation can go a long way in keeping top talent.

Positive retention starts with good management, and employers need to give managers the right support, training - and especially, time - to boost retention efforts, Herring told *EBN*.

"Now you have managers with expanded duties, additional reports, and now we're saying to them, 'Don't forget - we have to retain our talent as well,' " Herring said. "Some people are naturally good at developing talent and coaching, but most are not when they are incented on business results and margins and things like that."

## Workforce Health

### Flu Season: Nothing to Sneeze At

For employers, flu season can create a flurry of scheduling headaches, higher health costs and lost productivity as workers stay home to take care of themselves or loved ones.

This year's assault has already begun, with Georgia health officials recently reporting the first regional outbreak of the season, according to a *HealthDay* report.

While the season likely will bring lots of aches and pains, companies can boost their immunity to the impact of influenza and protect their workforce with a couple of simple solutions.

One of the best ways to stave off a workplace outbreak is a flu clinic. A recent study by the American Public Health Association (APHA) finds that companies can save between \$63 and \$95 per employee by offering vaccines to its workforce, according to a *Los Angeles Times* report. The secret to maximize savings, the APHA says, is to hold the flu clinic early. Any efforts after the end of December won't add up, according to the APHA.

"Employers are likely unaware of the potential savings" of flu clinics, said Rachel Bailey, the APHA study's lead author. "They may view employee vaccination as a short-term expense but may not be fully aware of the savings that result later into the influenza season."

### 409A RELIEF

The IRS has issued a new notice (Notice 2010-80) that provides more relief for nonqualified deferred compensation plans covered under Section 409A. This guidance provides another method of correction and transition relief under Notice 2010-6. The latest notice clarifies that a nonqualified plan linked to a qualified or another nonqualified plan is eligible for the previous relief in Notice 2010-6, provided that the link doesn't affect the time and form of payments under the plan.

### 401(k) TAX BREAK

The IRS has announced that the 20 percent withholding tax does not apply to in-plan Roth conversions of 401(k) plans. This rollover feature was included in a small-business jobs bill that was signed into law in September. If employers add the option this year, employees who roll over funds into a Roth (401)k will get a tax break.

### DON'T SKIMP ON SPDs

The Department of Labor recently reaffirmed its policy regarding the distribution of summary plan descriptions (SPDs) to plan participants. According to the Nov. 15 issue of Deloitte's Washington Bulletin, the DOL said "ERISA plan administrators cannot satisfy their obligations to 'furnish' summary plan descriptions simply by making them available to participants." The DOL was responding to a question of whether SPDs could be furnished by mailing a letter or postcard to participants informing them that a new SPD is available and that they call a telephone number and make a request. Such an action "is not a method likely to result in actual and full distribution of the SPD," the DOL said.

Other HR tips for battling the flu, from *Entrepreneur* magazine:

**Tell sick workers to stay home:** In a rough economy, some workers might feel they can't afford to miss work. But a sick worker who infects others can do a lot more harm than a few lost days of productivity. Keep a close eye on your workforce and let employees know they should stay home if they feel sick.

**That goes for you, too:** HR and management shouldn't contradict the sick policy, either. Workers who see the boss refusing to take sick leave may think that they must do the same.

**Keep it clean:** Offer sanitizer at work and impress upon employees the importance of washing their hands. Emphasize the importance of cleaning office equipment, such as computer keyboards and phones.

**Plan for absences:** Inevitably, some workers will fall ill. Arrange for telecommuting possibilities in advance and prepare schedules with some wiggle room in case someone calls in sick.

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## Enrollment

### Claims Review Process, Other Provisions May Complicate 2011 Enrollment

Employers face a slew of new benefits-related compliance challenges in the wake of recent health care reform legislation. Some provisions take effect on Sept. 23, meaning employers with calendar-year plans need to acknowledge those changes during this year's enrollment season.

One of the provisions of the Patient Protection and Affordable Care Act (PPACA) -- regarding the review of benefit claims and appeals -- could bring some significant changes to employers' plans, especially those who offer self-funded group plans.

Under PPACA, employees must have the ability to request a "federal external review" of coverage if a claim or benefit is denied by an internal view. This includes workers under a nongrandfathered self-funded group plan. These external reviews must be conducted by an accredited independent review organization.

However, self-funded employers received some help in August when federal agencies issued Technical Release 2010-01 that creates an interim safe harbor.

According to *PLANSPONSOR*, the IRS and Department of Labor won't take any action against a self-insured group

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## In Brief

### COSTLY TREND

A National Business Group on Health survey finds that employers project that the cost of their group health care plans will jump by 8.9 percent in 2011, an increase from the study's 2010 projection of 7 percent. The survey points to recent health care reform legislation as a main contributor for the 2011 prediction. Seventy percent of respondents said they would have to amend their plans to eliminate lifetime limits, 26 percent would have to drop

health plan as long as it:

- Complies with the procedures outlined in the Technical Release (based on the Uniform Health Carrier External Review Model Act, crafted by the National Association of Insurance Commissioners [NAIC Model Act] in July), or
- Voluntarily complies with the provisions of a state external review process if a state chooses to expand access to plans that are not subject to the applicable state laws.

The Department of Health and Human Services has stated it plans to issue guidance on which state laws satisfy the NAIC Model Act by July 1, 2011.

The Technical Release can be downloaded here:

<http://www.dol.gov/ebsa/pdf/ACATechnicalRelease2010-01.pdf>

### **Other PPACA Changes - Nongrandfathered Plans**

In addition to the claims appeals rules, employers with nongrandfathered plans -- fully insured and self-funded -- also must contend with a number of other new provisions this enrollment season, according to *Employee Benefit News*. Changes for plan years beginning on or after Sept. 23 include:

**Adult children coverage:** Plans must offer coverage to employees' adult children up to age 26. (Grandfathered plans are exempt if the adult child is eligible for other employer-sponsored coverage.)

**Preventive services:** Plans must provide full coverage for "evidence-based" preventive care, certain immunizations and some health screening procedures for women.

### **PPACA Changes for All Plans**

All employers, including those who choose to grandfather their plans, must comply with the following for plans that begin after Sept. 23:

**Annual limits:** Only "restricted" limits can be assigned to health plans "except for per beneficiary annual limits on

annual dollar limits and 13 percent would have to remove pre-existing condition exclusions for children under 19 - all required to comply with the Patient Protection and Affordable Care Act. Employers expect to pass along some of the cost increases to their workers, the study notes, with 63 percent of respondents saying they will increase the percentage of the premium paid by employees next year - and increase from 57 percent in 2010.

### **FLU TIME**

Although it still feels like summer in most parts of the country, health experts say employers should start getting ready for the upcoming flu season now. The Centers for Disease Control and Prevention says the vaccine for this year's flu season will cover three types of viruses: H1N1, H3N2 and a B strain. Experts note that even if employees got vaccinated for H1N1 last year, they should get a new shot to protect themselves from the other viruses.

### **FEWER FATALITIES**

Workplace deaths in the U.S. fell 17 percent in 2009 -- a record low -- to 4,340 deaths across all industries. Deaths at private construction firms dropped 16 percent in 2009. Transportation accidents caused the most worker deaths for a second year in a row. The number of fatalities involving automobiles, trains, planes and other vehicles was 1,682 in 2009, compared with 2,130 in 2008. About 20 percent of those deaths occurred on highways.

### **KEEPING COBRA**

Despite the end of the federal premium subsidy, terminated employees are still enrolling in

nonessential health benefits," according to *EBN*.

**Lifetime limits:** Such limits are prohibited except for services that are not "essential health benefits."

**Pre-existing conditions:** Exclusions are not allowed for covered children younger than 19.

**Rescission:** Coverage cannot be cancelled except for fraud. However, this does not prevent an employer from terminating a plan.

COBRA, a new study finds. One out of five terminated employees surveyed by Hewitt Associates enrolled in COBRA in June 2010, the first month in which the subsidy was unavailable. The COBRA enrollment figure in June was nearly twice as high as the historical rates prior to the subsidy.

### **GOOD TO SCREEN**

Employers showed their support for taking a proactive role in helping their employees improve their health in a new survey by the Midwest Business Group on Health (MBGH). More than 90 percent of respondents said their plans covered preventive screenings, such as pap smears, breast exams and cancer screenings. Also, nearly all (97 percent) said screenings and vaccines can help improve employees' health. According to the MBGH survey results, employers take such steps to reduce medical costs and prevent illness (94 percent), keep their workers healthy (84 percent) and keep them productive (59 percent).

### **ALL ABOUT TIMING**

Timing might be everything when rolling out benefit offerings, a new study suggests. Research by the University of Utah examined employees' behavior as it related to "payday proximity." The study suggests that "promotion-focused" programs (such as a companywide exercise program) are better received closer to payday, while "prevention-focused" activities (such as an eat-healthy initiative) are better introduced farther away from a paycheck. Researchers said the recent economic pressures from the recession likely will make these trends even stronger in

## **CDHPs**

### **CDHPs Fall Behind HMOs in Employee Enrollment as Growth Slows**

The number of consumer-driven health plans (CDHPs) offered continued to climb in 2010, but the plans ran a little short on steam when compared with HMOs in terms of total employees covered, according to a new study.

CDHPs grew at a rate of 18.1 percent this past year (about half that of 2009), but they no longer cover more employees (12.4 percent) than HMO plans (15.4 percent), according to preliminary results released by United Benefit Advisors (UBA) from its 2010 UBA Health Plan Survey, the nation's largest health plan benchmarking survey, with 17,113 plans from 11,413 employers.

The Northeast region of the country had the largest concentration of CDHPs (26.7 percent), followed by the Southeast region (22.9 percent). The average cost increase for all CDHPs at 7.3 percent was slightly lower than that of the average of all plan types, which increased 8 percent

this year.

Employers often offset the higher out-of-pocket costs of CDHPs by offering employees a health reimbursement arrangement (HRA) or a health savings account (HSA) and contributing funds. The 2010 UBA Health Plan Survey found the average annual employer contribution to an HRA was \$1,481 (up from \$1,310 in 2009) for a single employee and \$2,857 for a family (up from \$2,502 in 2009).

"The trend toward employee empowerment and participation continues in 2010 when it comes to health care," said Bill Stafford, UBA Vice President, Member Services. "Employees are taking more control over health care expenditures by increasing participation in CDHPs, and they are also realizing that there are financial benefits - in addition to health benefits - of participating in wellness programs."

Other key statistics from this year's UBA Health Plan Survey results:

- PPO plans have nearly two-thirds of all enrolled employees (65.7 percent).
- Fee-for-service plans will no longer be reported as the plans remaining are insufficient to develop legitimate benchmarks.
- The average monthly employee contribution for plans with contributions for all plan types is \$113 for single and \$443 for family.
- More than three-fourths of all wellness plans (77.1 percent) offered a health risk assessment.
- Of all plans in the Northeast, 81.7 percent still have 100 percent coinsurance.
- 52.9 percent of all covered employees also elected to cover their dependents.

Separate research on CDHP adoption from 2005 to 2009 also detected a shift in CDHP trends, according to a report in *Employee Benefit News*. An Employee Benefit Research Institute analysis of several health plan studies noted that the percentage of small firms (three to 199 workers) offering a CDHP has declined recently (11 percent in 2009 compared with 13 percent in 2008), while larger companies continued to add them to their benefits

the future.

### **CUTTING CARE**

Many patients are skipping doctor visits or altering their medication doses to save costs in a rough economy, according to a new survey by Consumer Reports. Thirty-nine percent of those polled said health care costs prompted them to cut back on some sort of medical care in the past year, such as postponing a visit to the doctor (23 percent) or refusing to take a medical test (16 percent). Twenty-seven percent said they skipped taking their medications to save money.

### **DRESSED FOR SUCCESS**

Want to look sharp at work? Take a look at where you are first. A new survey finds attitudes about proper dress attire vary widely across the globe. The study by Ipsos/Reuters found that Europeans have the most relaxed attitudes, with only 27 percent saying they wore traditional business clothes to work (e.g. coats and ties for men, dress suits for women). If you really want the laid-back lifestyle, check out Hungary, where only 12 percent said they wore business clothes. Nearly half (46 percent) of Hungarians responded that shorts were OK for the office, as well. Indians might be the snazziest dressers, with nearly 60 percent saying they wore traditional business attire.

### **RETIREMENT TOOLS**

Retirement plan participants say they need more resources from their retirement plans to make better decisions, according to a study by Mathew Greenwald & Associates and KK & Co. More than half said they used some sort of worksheet or calculator to

offerings (28 percent in 2009 compared with 22 percent in 2008 among employers with more than 1,000 employees).

help them make investment decisions, although 44 percent said they want those solutions to be simple and to take less than a half hour to complete. Also, 80 percent of respondents were interested in proactive analysis and messaging that advises them on how they could improve their savings.

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## Compensation

### Employers Expect Pay Bump -- At Least for Top Workers

After suffering through a wave of layoffs, furloughs and pay freezes, employee compensation rates now seem to be swinging the other direction, according to several new surveys.

Four recent studies, including surveys by Hay Group and WorldatWork, project average base salaries will rise between 2.5 percent and 3 percent in 2011, according to a report in *Human Resource Executive Online*. While that's a modest increase, it is a positive shift in recent trends, considering 31 percent of companies were instituting pay freezes in 2009.

Wage increases, however, won't be spread equally among the workforce, according to WorldatWork. Its global research indicates that high performers likely will net a large portion of increased salary budgets, with raises reaching 3.7 percent. Middle performers can expect an average 2.4 percent hike, while poor performers will settle for 0.7 percent or less.

"With underfunded salary budgets this year, employers want the most bang for their buck," said Anne C. Ruddy, WorldatWork president. "They are no longer averse to withholding merit increases for poor performers so they can afford to grant meaningful increases to better performers."

The "pay-for-performance" model appears to be more attractive for younger workers, according to research by Kelly Services. Its recent study found that more than four in 10 Generation X and Generation Y workers say they are

currently on pay-for-performance plans, compared with only 30 percent of baby boomers.

While more companies are dabbling in pay-for-performance, profit-sharing and company-ownership models to motivate the workforce and control compensation costs, it remains to be seen if these methods will survive after the economy begins to improve. Also, some professions don't fit well into the pay-for-performance structure, experts noted.

"The high-level summary of academic findings is that pay-for-performance can work in some context and with certain types of work, but can have unintended consequences and even lead to lower performance in others," Jodi Beggs, a researcher in behavioral economics and incentives in Boston, told *Human Resource Executive Online*.

Regardless of their pay arrangements, many employees have just been thankful to keep their jobs and continue to draw a paycheck, according to recent research by Gallup, published in *PLANSPONSOR*. With unemployment hovering near 9.5 percent, workers are less inclined to complain about their pay. Most workers (53 percent) say they are paid the right amount, with 31 percent saying they are "completely satisfied" with their wages -- matching a record set in 2006, according to Gallup research.

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Ideas and Information for Human Resources Professionals

## Health Care Costs

### End of Summer Brings Start of New Search for Health Care Savings

With summer winding down, many employers are starting their annual migration to the land of open enrollment. This year, experts say workers' lifestyle and prescription drug habits will move into the crosshairs as companies hunt for new ways to keep health care costs grounded.

Recent research shows that more employers plan to penalize employees that do not participate in wellness programs or who exhibit unhealthy habits, such as smoking. A new study by Hewitt Associates finds that nearly half of large employers use or plan to use financial penalties to encourage workers to change their ways, according to a report in *MarketWatch*.

Often, these penalties are outcome-based. For instance, a company might charge a smoker more if he or she fails to participate in a smoking cessation program, or it might shift an employee to a high-deductible plan if they fail to reduce their cholesterol level. Some companies are beginning to enact penalties for simply refusing to participate in health screenings, experts say.

While some grumblings from the workforce about such moves might be expected, research shows that many

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## In Brief

### NURSING RULES

The Department of Labor has released new guidance about an amendment to the Fair Labor Standards Act that calls for employers to provide "reasonable" time and a place for employees who are nursing mothers to express milk for their newborns, according to Fisher & Phillips LLP. The place, which cannot be a bathroom, must be functional, shielded from view and protected from any intrusion by co-workers or the public. Employers generally do

employees aren't necessarily turned off by the idea of penalties. A new study by Rutgers University finds that nearly half (47 percent) of workers say employers should be allowed to charge unhealthy workers who smoke. However, those polled were more forgiving of overweight workers, with only 26 percent saying obese employees should be charged more.

### **Prescription for savings**

While smoking and obesity serve as easy targets for cost-cutting strategies, shifts in employees' shopping habits for prescription drugs also can bag big savings without increasing premiums or eliminating coverage, according to Brian Solow, a vice president at Prescription Solutions, a pharmacy benefit manager.

In a recent article for *Employee Benefit News*, Solow highlights a few steps that can generate savings for both employers and workers. They include:

- **Generics:** Off-brand drugs can cost 50 percent to 70 percent less than their brand-name versions. While acceptance of generics is increasing, more can be done, Solow said, pointing to a recent analysis that found that generics account for 69 percent of all prescriptions but only 16 percent of total drug spending. Solow encourages a "step-therapy" approach in which a patient starts with a generic version and only moves to a brand-name medicine if the generic treatment is not effective or if the patient suffers a bad reaction.
- **Mail-order drugs:** These services can generate savings and are effective in monitoring drug interactions, Solow said. A study by the Lewin Group finds that mail-order prescriptions can cost up to 10 percent less than drugs purchased at brick-and-mortar pharmacies.
- **Disease therapy management:** These programs, which can contain features of both disease management programs and medication therapy management, are designed to improve drug compliance. One such study, featured in the *American Journal of Managed Care*, reduced relapses by 34 percent and significantly cut medical costs for multiple-sclerosis patients,

not have to pay employees during nursing breaks. However, if the employee is not "completely relieved from duty," or if the employer already allows paid breaks, then the time taken during nursing sessions must be compensated, Fisher & Phillips states.

### **PAY FOR PERFORMANCE**

A new survey by WorldatWork reveals that U.S. employers are reporting an average salary increase of 2.5 percent for workers in 2010. However, performance plays a major role in the actual size of raises, according to the research. The study projects that high performers will land an average increase of 3.7 percent this year, while middle performers will receive an average raise of 2.4 percent. Low performers should expect a slim 0.7 percent increase or less, the research states.

### **TIME TO TELECOMMUTE**

Most companies are offering telecommuting to their employees, according to a survey by Business Legal Reports (BLR). The survey finds that 57 percent of employers support some sort of telecommuting option, and two-thirds of those have offered telecommuting for three years or more. More companies (88 percent) also are offering more flex time compared with responses from 2006 (64 percent). However, fewer companies (59 percent) offer a "relaxed" or "very relaxed" dress code compared with four years ago (65 percent), BLR reported.

### **FMLA SURVEY**

Solow said.

### **Dependent audits**

Although wellness initiatives and education have moved to the forefront of cost-cutting efforts for many employers, some companies are looking inward with dependent audits, according to CNNMoney. Several national audit companies have reported significant increases recently in inquiries by employers about the process, which can weed out ineligible participants in a plan.

Michael Smith, CEO of ConSova, said audits typically find that 10 percent to 13 percent of dependents are ineligible.

Recent health care reform legislation is making audits even more attractive. Next year the law requires plans to cover the adult children of employees until age 26, so the desire to shed ineligible participants likely will continue to grow, experts say.

The Department of Labor plans to conduct a survey to learn how employees are using leave time allowed by the Family and Medical Leave Act (FMLA). The most recent survey of FMLA, released in 2007, found that between 8 percent and 17 percent of U.S. employees took FMLA leave in 2005.

### **UNPLUGGED DRUGS**

About 40 percent of private-practice doctors had electronic prescribing systems running in their offices in 2008, according to research released in July by the Center for Studying Health System Change. Of those, one-quarter used the technology infrequently or not at all, the survey finds. Checking for adverse drug interaction topped the list of tasks completed with electronic prescribing systems at 65 percent. Fifty-four percent of doctors that used the systems said they frequently transmitted scripts to pharmacies, while 34 percent said they used the systems to check if a drug was covered by a patient's health care plan. Only 23 percent of plugged-in doctors (less than 10 percent of all office-based physicians) frequently used electronic systems to tackle all three tasks.

### **LIVING WELL IN HAWAII**

Hawaii earned the top spot in the national Well-Being Index, generated by Gallup and Healthways. Residents of the Aloha State had the nation's best scores in three of six categories: Life Evaluation, Emotional Health and Physical Health. Residents of Vermont and Minnesota also earned high marks. West Virginia took the lowest spot in the index for the third year in a row. The lower

## **New Notices**

### **New Laws Add to 2011 Enrollment Load**

As enrollment season for calendar-year plans approaches, employers face a sea of new rules and procedures, thanks to recent health care reform.

Despite these compliance and cost challenges, most employers say they'll continue to offer health care coverage for the foreseeable future.

Regardless of a company's long-term strategy on health care coverage, employers should now turn their attention to more immediate matters - particularly new employee notices, a law firm advises.

In a recent online publication, Nelson Mullins Riley & Scarborough LLP advises that employers should re-evaluate the bundle of notices they hand out to employees

each enrollment season and include new pieces that are required by the Patient Protection and Affordable Care Act (PPACA). Many of these new notices must be delivered "no later than the first day of the first plan year beginning on or after Sept. 23, 2010," which essentially means they must be distributed in employers' 2011 enrollment materials, or even prior to enrollment time, the firm states.

The law firm said the following notices are applicable to all 2011 employer-sponsored group health care plans:

- Special Enrollment Notice For Dependent Coverage of Children Up to Age 26
- Notice Regarding Plan's Grandfathered Status (if a plan seeks to be grandfathered)
- Special Enrollment Notice for Lifetime Limit

The law firm says plans that are not grandfathered also should provide a notice about the new patient protections, including a patient's rights to choose a doctor and obtain obstetrical or gynecological care without prior permission. Links to model language of these notices can be found here:

<http://www.nelsonmullins.com/newsletters/comp-and-benefits-brief-july-22>

In addition to the above, employers might want to include a number of notices in their enrollment packets that are not related to PPACA, according to the law firm of Bricker & Eckler LLP. These include:

- Notices on HIPAA enrollment and privacy rights, including those affected by the Genetic Information and Nondiscrimination Act (GINA)
- Notice of special rights under the Children's Health Insurance Program Reauthorization Act (CHIPRA)
- Notice of rights under the Women's Health and Cancer Rights Act
- Minimum length of stay notice
- Notice of creditable/noncreditable prescription drug coverage
- COBRA notice to new enrollees

rankings were dominated by Southern states, including Mississippi, Kentucky, Arkansas, Alabama and Tennessee.

### **DISABILITY IS TOPS**

More than 41 percent of full-time employees say they would consider paying in full to obtain certain benefits not currently offered by their employer, according to a new survey by Guardian. When asked which benefits they would prefer to have, most employees chose disability (58 percent). Critical illness (56 percent), dental (55 percent), life (52 percent) and vision (48 percent) rounded out the top five in the survey.

### **GOING SOCIAL**

More people around the world are hopping onto social-networking sites while at work, according to a new survey. A global survey by Trend Micro, an online content provider, finds that nearly a quarter of employees visit social-networking sites, such as Facebook and Twitter, through their company networks. Trend Micro polled 1,600 employees from the U.S., Germany, Japan and the U.K. In the U.S. and Germany, 24 percent of workers said they visit the sites while at work, while 33 percent of Brits said they log into the sites. Only 14 percent of Japanese employees said they view social-networking sites at work.

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In a recent article for the Society for Human Resource Management, Bricker & Eckler's Peggy Bomberger noted that enrollment also serves as a good time to knock the dust off of summary plan descriptions (SPDs) and check for compliance changes. Bomberger said CHIPRA, GINA and other recent legislation will require SPD updates.

This wave of new compliance requirements - and worry over rising health costs - has rattled many employers. However, a new study shows that most employers aim continue to provide health care benefits despite the challenges created by health care reform.

A national poll by Fidelity Investments finds that while 84 percent of employers expect to re-examine their benefit strategies for 2011, nearly two-thirds (64 percent) of respondents said their companies were not seriously considering dropping health care coverage. A larger proportion of small businesses (22 percent) are pondering an end to coverage compared with larger companies (14 percent), the survey finds.

## Health Care Reform

### **Agencies Issue Rules on Preventive Services, Claim Appeals**

Federal agencies have published interim final regulations on two major aspects of recent health care reform: covered preventive services and the rights of patients to appeal denials of health care claims.

#### **Preventive Services**

Three federal departments -- Health and Human Services, Labor and Treasury -- published interim final regulations that outline a series of preventive medical services that must be provided without cost sharing by an employer's nongrandfathered group health plan. They include:

- Evidence-based services, which include screenings for breast and colon cancer, diabetes, high cholesterol, high blood pressure and vitamin

deficiencies for pregnant women

- Routine vaccines, ranging from childhood immunizations to tetanus shots for adults
- Prevention for children, which includes regular pediatrician visits, developmental assessments and more
- Prevention for women (criteria is still being developed)

The regulations also explore in what scenarios cost sharing for preventive services is allowed, according to an Employee Benefit News report. For instance, cost sharing can be implemented if the employee uses an out-of-network provider. Also, plans may institute cost sharing on an office visit when a preventive service is billed as a separate charge, or if a treatment is not itself a recommended preventive service.

Grandfathered plans are exempt from these rules.

### **Claim appeals**

The three agencies also announced interim final rules that create federal standards for health care claim appeals, according to the law firm Brucker Morra. The rules allow employees to appeal claim denials directly to insurers and then to external board reviews, if necessary.

Under the regulations, nongrandfathered group plans must:

- Allow workers to appeal when a plan denies a claim of a covered service
- Give employees detailed information about why the claim was denied
- Notify employees of their rights to appeal
- Ensure a process that allows denials to be properly reviewed
- Provide a process that can expedite a review in urgent cases

Most states already have laws that require an external review of claims. However, the details of those laws vary widely, and five states - North and South Dakota, Alabama, Nebraska and Mississippi - do not have such laws on the books. These new rules create a federal

standard for appeals, trumping state law. The law takes effect for plans beginning on or after Sept. 23, 2010, but it won't apply to states that already have external-review laws until July 2011.

Those employers who are self-insured also will see a big change, according to a report by *Kaiser Health News*. Previously, external-review requirements did not apply to self-insured plans.

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Ideas and Information for Human Resources Professionals

## Health Care Reform

### Federal Agencies Issue Guidance on Grandfathering, Patient Rights

Nearly four months after President Barack Obama signed landmark health care reform legislation, employers now are starting to see the real impact with two sets of interim rules released by federal agencies.

In June, the IRS and the departments of Health and Human Services, Treasury and Labor issued interim final regulations on "grandfathering" and outlined what would cause a health plan to lose its exempt status.

Under the Patient Protection and Affordable Care Act (PPACA), health care plans that do not undergo "significant changes" won't have to comply with some of the law's provisions, such as full coverage of preventive services. The rules, according to reports by *Workforce Management* and *Human Resource Executive Online*, offer some examples of what moves would trigger a loss of grandfathered status. They include:

- Eliminating coverage of a specific medical condition, even if the condition is uncommon.
- Increasing coinsurance requirements.
- Increasing copays by more than \$5 or more than 15 percent plus the rate of medical inflation (whichever is greater).
- Decreasing the employer's share of premium paid

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## In This Edition

- [Health Care Reform](#)
- [FMLA](#)
- [Communications](#)

## In Brief

### PARITY DEADLINE

The Department of Labor (DOL) is granting a temporary reprieve for some employers to comply with the Mental Health Parity Act until final rules are issued.

Because many companies use copayments for medical health services and coinsurance for mental health services, neither one would meet the "substantially all" test that had been set by the interim final rules issued in January.

Therefore, many employers would not have been allowed to

by more than 5 percentage points.

- Moving to another grandfathered plan with fewer benefits.

In addition to the exemption for preventive services, grandfathered plans are not required to extend coverage to employees' children up to age 26 until Jan. 1, 2014, for cases in which the adult child is eligible for coverage through his or her own employer.

However, even grandfathered plans must comply with another set of PPACA-created regulations, dubbed the "Patient's Bill of Rights" by the Obama administration. The government's interim rules on these regulations, released shortly after the grandfathering notice, are designed to "put American consumers back in charge of their health care coverage and care," according to a fact sheet posted at:

[http://www.healthreform.gov/newsroom/new\\_patients\\_bill\\_of\\_rights.html](http://www.healthreform.gov/newsroom/new_patients_bill_of_rights.html)

Features of these rules, which apply to health coverage starting on or after Sept. 23, 2010, include:

- Prohibiting insurers from denying coverage for children under age 19 because of pre-existing conditions. (In 2014, this provision will extend to adults, as well.)
- Removal of lifetime limits on benefits, with a ban on annual limits in 2014.
- Prohibiting insurers from retroactively dropping coverage for customers after they get sick because of a mistake on their paperwork, known in the insurance industry as "rescissions."

The Obama administration estimates that these changes will have little effect on premiums, according to a report by *Kaiser Health News*. For instance, the government expects the provision that prohibits denial of coverage of children with pre-existing conditions to prompt an annual premium increase of 1 percent or less. The administration said the ban on lifetime limits could drive up premiums by 5.1 percent on plans that have annual limits of \$250,000. However, the government asserts that only 0.5 percent of plans fall into this category, and most people would see an annual premium increase below 1 percent. Government

require any cost-sharing of outpatient mental health services. The DOL made its latest decision after receiving public comments.

### **COBRA SUBSIDY SNAG**

Senate Democrat leaders failed to win enough support in late June for an extension of the federal COBRA premium subsidy program. The program provided a 65 percent subsidy for COBRA premiums up to 15 months for workers who were involuntarily terminated through May 31. However, employees terminated after that date will not receive a subsidy. Sen. Robert Casey, D-Pa., introduced an amendment that would extend the program through Nov. 30, but it was opposed by Republicans and some fiscally conservative Democrats because it would increase the federal deficit.

### **STICKING WITH BENEFITS**

Most employers don't expect to dump their benefit plans because of the recent health care reform legislation, according to a poll by the International Foundation of Employee Benefit Plans. Of the 1,000 employers polled, 87 percent said they plan to continue to offer health benefits because they serve as an effective recruitment and retention tool. Twenty-one percent of employers expect to add or increase emphasis on high-deductible health plans to offset the expected higher costs associated with health care reform.

### **RIGHT TO SICK DAYS?**

Three-quarters of respondents to a poll by the National Opinion Research Center said they see

analysts expect the end of rescissions to spark an annual premium increase of less than 1 percent, as well.

Some legislators and industry analysts, on the other hand, question the reality of those estimates and say the regulations fall short of helping employers or employees.

"While [rules] will purport to add clarity to the 2,700 pages of health care legislation, the effect will be more hoops to jump, said Cyndy Nayer, president of the Center for Health Value Innovation, told *Employee Benefit News*.

"The rules that should be clarifying how this will benefit the citizens are not delivering on affordable and accessible care, and the [Obama] administration does not appear to be focused on easing the transition," Nayer said.

## FMLA

### DOL Widens FMLA Eligibility

While employers' attention is swirling around the evolving regulations from recent health care reform legislation, the federal government also has been tinkering with an older labor law that could have significant impact on employers.

The Department of Labor (DOL) in June altered the definition of "son" and "daughter" as it applies to the Family and Medical Leave Act (FMLA), allowing some same-sex couples and domestic partners to take time off to care for their partners' children.

The DOL's decision also would allow other caregivers, such as aunts, uncles and grandparents, to take advantage of the 12 weeks of unpaid leave that FMLA permits.

Under the changes, "an employee who either bears day-to-day responsibility for care or financially supports the child stands in loco parentis," meaning he or she can qualify for leave to take care of a child under FMLA, even if the employee is not a legal parent of the child, according to the

paid sick leave as a basic worker's right, and the same number believe that employers should be required to offer paid sick days to employees. Those polled indicated they are somewhat sensitive to the challenges faced by small businesses regarding paid sick days, with 47 percent saying they favor letting companies with fewer than 15 employees provide fewer paid sick days than larger companies. However, only 17 percent said they would want small businesses to be completely exempt from offering paid sick days.

### OBESITY RATES SWELL

Twenty-eight states saw their obesity rates rise in the past year, according to research by the Trust for America's Health. Mississippi had the highest rank for a sixth year in a row -- with 33.8 percent of the adult population rated obese -- followed by Alabama and Tennessee (both 31.6 percent). Nearly all the top 10 states were in the South. The healthiest states were concentrated in the Northeast and West. Colorado had the lowest obesity rate at 19.1 percent.

### REHIRING BUMP

A recent poll by the Society for Human Resource Management found that while employers say they likely will continue cost-cutting strategies, such as attrition and wage freezes, more are starting to rehire laid-off workers. Forty-five percent of those polled said they've rehired employees who previously were laid off, up from 30 percent in October 2009.

### BANKING ON 401(k)

More than half of participants in 401(k) plans say their savings

law firm Gray Plant Mooty.

To verify eligibility, employers can require employees to produce "reasonable documentation" of the relationship under the rules, writes the law firm's Bryan Seiler.

Myra Creighton of Fisher & Phillips LLP said the changes will spark a jump in FMLA requests, and "reasonable documentation" likely won't be hard for employees to produce.

"[The] DOL clearly says that '[a] simple statement asserting that the requisite family relationship exists is all that is needed in situations such as in loco parentis where there is no legal or biological relationship,'" Creighton told *Human Resource Executive Online*.

Stephen Paskoff of ELI Inc., a compliance company in Atlanta, said most employers will be able to adjust to this change because they already have solid FMLA policies in place. The difficult part, Paskoff told the online HR magazine, will be educating managers and making sure they follow the rules.

"Some managers and employers are going to have conceptual or moral problems accepting the concept [that same-sex couples are eligible for FMLA leave], but somehow they have to understand it, whether they personally agree with it or not."

## Communications

### New Laws Offer Benefit 'Teaching Moments'

Employers who are struggling to comprehend the end results of health care reform aren't alone. Many of their employees are trying to sift through a mountain of information in the media to find out how this legislation will affect their benefits.

The reforms have moved benefits back into the spotlight, which translates into a golden opportunity for HR departments to educate their workforce, according to Jennifer Benz, a communications and marketing expert for

are more important to them since the economic crisis of 2008, an increase of 10 percent from last year, according to BlackRock, an investment firm. Saving for retirement tops other financial goals, such as saving for health care and reducing personal debt. Employees see their employers' matching contributions as the most powerful influence on their 401(k) savings rate, the research reveals.

### SECURITY, BENEFITS RULE

For the fourth consecutive year, employees said job security and benefits are "very important" in creating job satisfaction, a recent poll by the Society for Human Resource Management found. HR professionals agreed with employees on the importance of job security. However, HR respondents ranked an employee's relationship with his or her supervisor as a top contributor to job satisfaction, while fewer than half of employees consider their relationship with their boss a key factor.

### RETIREE APPLICATION

The Department of Health and Human Services has posted an official application that employers must use to apply for the Early Retiree Reinsurance Program, which will reimburse employers for a portion of health care claims from plans that cover retirees who are at least 55 but not eligible for Medicare. Employers can download the application and view the fact sheet at:

<http://www.hhs.gov/ociio/regulations/errp/index.html>

the HR industry.

"Employees care about their benefits more than ever before," Benz writes in a recent article for *Employee Benefit News*, "and they are looking to you to help them understand what is ahead. If you've spent time in the last decade trying to engage employees and family members in new health and wellness behaviors, now's the time to recommit to your priorities and weave together narratives of health, costs and reform."

Benz suggests using metrics that are already on hand to analyze how employees are using their benefit offerings. This will help employers decide how to proceed with a communications plan, Benz writes.

When talking to employees about health care reform, don't worry if you don't have all the answers, Benz advises. "Communication is essential in uncertain times, and not knowing all the answers is no excuse not to communicate," Benz writes. "You know plenty already, and a heck of a lot more than your employees." Answer what you know and try to stick to the facts, keeping in mind the various viewpoints that are surrounding these issues, Benz writes.

While a good communication plan will be essential in helping employees make the right benefit decisions in the wake of health care reform, a recent study suggests that HR professionals may have their work cut out for them. A national poll by Unum found that fewer employees felt they received effective benefits education in 2009 compared with 2008. The drop in education went hand-in-hand with workers' lower opinions of their employer and their benefits, the research found.

In contrast, those who said they received good benefits education were more satisfied with their work. A vast majority (90 percent) of those respondents said they thought their employer valued their work, and 88 percent said they were satisfied with their job.

"[As] the benefits landscape is shifting, it is more important than ever to give employees the right tools to

understand their benefits choices and to communicate what's available to them," said Bill Dalicandro, Unum's vice president of enrollment, in a recent report by the Society for Human Resource Management.

An employer's communication method might prove to be just as important as what they say to their workers. With technology and social media gaining in popularity, some HR departments are starting to dabble in Facebook, Twitter and other social media to educate the workforce on employee benefits. A recent survey, however, suggests that idea may not be so hot.

The survey, conducted by the National Business Group on Health (NBGH), found that while 47 percent of the polled full-time U.S. employees said they use Facebook either daily or weekly, only 7 percent said they use it for business purposes. Nearly three-fourths said they have no interest in receiving benefits information on Facebook. About 80 percent were cold to the idea of benefit "tweets" via Twitter, the survey found.

"Because we hear so much about social media . . . we're made to feel that we're out of it if we're doing the old-fashioned thing like home mailings," Helen Darling of NBGH told *Workforce Management*. "But even the youngest employees prefer receiving communications the old-fashioned way."

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June 2010



Ideas and Information for Human Resources Professionals

## Health Care Reform

### IRS Sheds Light on Credit for Employer-sponsored Health Coverage

Most of the regulations regarding the Patient Protection and Affordable Care Act are still under construction by federal agencies. The IRS, however, has hurried guidance concerning a provision that is actually good news for many companies -- the small-business tax credit.

The tax credit, which is available immediately, is granted to companies that pay at least half the cost of single coverage for their employees, have fewer than 25 full-time-equivalent (FTE) employees and pay wages averaging less than \$50,000 annually. In 2010, the smallest employers -- those with 10 or fewer FTEs and paying annual wages of \$25,000 or less -- will receive the biggest break: 35 percent of premiums paid.



According to the law firm Ivins, Phillips & Barker, the IRS addresses a number of credit-related questions that stem from the language of the health care reform legislation in its recent Notice 2010-38. They include:

**Coverage of adult children:** The IRS states that medical care for an employee's child who has not turned 27 as of the end of the taxable year is excluded from gross income, even if the employee does not claim this child as a dependent on his or her taxes. Reimbursements for health care for an employee's child under age 27 from a health savings account also are nontaxable. In addition, while some insurers are already starting to expand coverage to employees' adult children, the law does not require

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## In This Edition

- [Health Care Reform](#)
- [Health Savings Accounts](#)
- [Recruitment and Retention](#)

## In Brief

### RETIREE CLAIM PROGRAM

The Department of Health and Human Services has posted a draft application for companies that wish to participate in the federal government's reimbursement program for retiree health care claims. The program, part of the recent health care reform legislation, will partially reimburse employers for claims made by retirees who are at least 55 years old but not eligible for Medicare, as well as retirees' covered dependents,

coverage until Jan. 1, 2011, for calendar-year plans, the notice states.

**FSAs:** Employers can allow employees to increase their pre-tax contributions to their flexible spending accounts to help cover expenses for their adult children under age 27. However, a plan amendment likely will be required because FSAs generally only cover employees' children who are declared as dependents by the employees. Because the health care reform law extends coverage to adult children who are not dependents, the typical plan will need an amendment, the law firm advises.

In a separate publication released in late May -- Notice 2010-44 -- the IRS clears up more murky issues, according to an *Employee Benefit News* report. Clarifications include:

**State tax credit:** An employer's tax credit will not be reduced by a state tax credit or subsidy, except in limited situations to prevent credit abuse. The IRS points out that an employee will receive the full federal credit as long as the credit doesn't surpass the employer's net contribution to health coverage. About 20 states offer some sort of health insurance tax credit to employers.

**Dental/vision:** Employers can receive credit for dental and vision plans, as well as traditional medical plans. However, an employer's dental and vision plans still must meet the requirements that apply to medical health coverage -- including paying 50 percent of the premium for single coverage.

Although up to 4 million businesses are expected to be eligible for the credit, critics say it's far from a free lunch, primarily because it does not address the rising cost of health insurance.

"As long as costs keep going up, the credit is going to become less valuable," Bill Rys, tax counsel for the National Federation of Independent Business, told *Kaiser Health News*.

The tax credit also might become a victim of its own success. Companies that save money through the credit and decide to expand their workforce might make themselves ineligible, according to a new report by the National Center for Policy Analysis (NCPA).

As a company hires more workers, it runs the risk of surpassing the 25-worker/\$50,000 wage limit set by the

regardless of age. The \$5 billion in reimbursements will be distributed on a first-come, first-served basis. The draft is available at:

[http://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=201005-0938-012](http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201005-0938-012)

The final application is expected to be available by the end of June.

### **GROUP RATES JUMP**

Small and mid-size employers are seeing significant increases in health insurance rates at renewal, according to a new poll of benefit advisors. The Council of Insurance Agents & Brokers notes that 86 percent of polled brokers reported rate increases for small accounts (50 or fewer employees). More than half of those were between 11 percent and 20 percent. Brokers said 58 percent of mid-size accounts (51 to 500 employees) are seeing hikes between 6 percent and 15 percent.

### **EFAST2 ADDITON**

The Employee Benefits Security Administration has announced that service providers that manage the filing process for plans can get their own signing credentials and submit the electronic Form 5500 filings for the plan. The service provider must confirm it has written authorization from the plan administrator to submit the filing, and the administrator must manually sign a paper copy of the completed filing, which must be saved as a PDF and attached to the EFAST2 filing.

### **A FEW MORE DAYS TO COMPLY**

Many plan sponsors face an Aug. 2 deadline to file their Form 5500 returns, according to the IRS. Plan sponsors must file on the last day of the seventh month after their plan year ends. For those with calendar-

law, the NCPA points out. Even if a company doesn't gain jobs, it could pass the salary mark if it raises wages or hires a high-earning employee.

"The tax credit is supposed to offset part of the burden of a new employer mandate to provide health insurance for their employees," Pamela Villarreal, co-author of the report, said in a PRNewswire release. "However, as firms grow, they will be penalized if they hire more workers or raise employee wages."

year plans, that deadline is Aug. 2 because July 31 is on a Saturday this year.

### **WORK AS HEALTH HUB**

More than 62 percent of polled employers said the workplace must play a key role in helping to foster a healthier workforce, according to a new Workforce Management poll. Almost 75 percent of employees say they would be more willing to adopt healthier habits if their co-workers did as well, while 60 percent said they'd be encouraged if company executives led healthy lifestyles.

## **Health Savings Accounts**

### **Government Holds Limits Steady as HSA Popularity Keeps Growing**

With the cost of living flat, the IRS is not changing the 2011 maximum contribution limits for health savings accounts (HSAs).

A *Business Insurance* report notes that the IRS will carry over the 2010 maximum HSA contribution limits of \$3,050 for single coverage and \$6,150 for family coverage. The IRS also is maintaining the minimum deductible at \$1,200 for single coverage and \$2,400 for family coverage. Maximum out-of-pocket expenses, including deductibles, remain at \$5,950 and \$11,900 for single and family coverage, respectively.



A new report by America's Health Insurance Plans (AHIP) reveals that about 10 million Americans are enrolled in HSAs -- a 25 percent jump since 2009. Thirty percent of those with an HSA were in the small-group market, the study found. States with the most people covered by HSAs were California (1 million), Ohio (651,000), Florida (639,000), Texas (637,000), Illinois (575,000) and Minnesota (361,000).

As the popularity of consumer-driven health plans (CDHPs) -- which often include HSAs -- has ballooned, employers have started to look for ways to help their employees get the most out of their coverage. A new survey by Workscape found that more than 75 percent of large employers with CDHPs offer decision-making tools for their employees. In addition, sixty-one percent of small

### **GOING VOLUNTARY**

The rough economy has prompted many employers to take a close look at voluntary benefits as a way to shore up their overall compensation package, a new study shows. A recent poll by Colonia Life & Accident Insurance Co. found that nearly 60 percent of advisors said their clients have added voluntary benefits options for employees. Nearly half the respondents said their clients shifted more benefit costs to the workers.

-group employers offer tools, which include web-based resources, cost calculators and plan comparison tools.

Simply having a CDHP tool available isn't enough for some employers, the Workscape survey finds. Nearly a quarter of respondents offer incentives to encourage employees to actually use the CDHP tools when making decisions about their health care. Enticements include gift certificates, cash, premium reductions and contests.

## Recruitment and Retention

### **As Hiring Heats Up, Employers Take Another Look at Value of Benefits**

The U.S. job market appears to be on the verge of a summer sizzle, and employers are banking on employee benefits to recruit and retain top talent, a set of surveys shows.

Nearly half (49 percent) of employers polled by Dice Holdings said they will add up to 10 percent more employees in the second half of 2010 compared with the first six months of the year. Twenty-eight percent expect their hiring to increase between 11 percent and 20 percent.



As the hiring picture begins to improve, some employers are turning their attention to hiring -- and keeping -- the best people. To strengthen their retention footing, more than a third of employers say they are boosting benefits and incentives as a way to keep their top employees, according to a new poll by NuView Systems Inc. Only 15 percent said they were relying on pay raises and bonuses to keep their star employees in the fold.

Employers polled in a separate Workscape study also revealed their commitment to benefits as a recruitment/retention tool. Two-thirds (66 percent) of employers said employer-sponsored medical benefits are critical to their recruitment and retention efforts, and 46 percent expect they will consider benefit increases as the economy recovers.

However, one-fifth of respondents said they weren't

planning on doing anything to shore up retention, the NuView poll revealed. Also, Workscape found that while 71 percent of employers fear they will face retention problems as the job market improves, few expect those problems to arise in 2010.

Still, experts say retention could become a big challenge, especially considering the hard knocks that employees have absorbed during the recession, including pay freezes, benefit cuts and furloughs.

In fact, the Bureau of Labor Statistics reported that the number of workers voluntarily quitting in February surpassed the number being fired or laid off for the first time since October 2008. That trend likely will continue, according to research by Right Management, which found that 60 percent of workers said they aim to leave their current job as soon as the hiring market improves.

"Employees feel disengaged with their jobs, which is going to lead to a lot of churn as we come out of the recession," Brett Good of Robert Half International, an executive recruiting firm, told *The Wall Street Journal*.

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Ideas and Information for Human Resources Professionals

## Health Care Reform

### Insurers, Employers Act Fast on Reform

Although many of the provisions in the sweeping health care reform legislation don't take effect for months or years, many insurers and employers are getting a jump on the law.

UnitedHealthcare, CIGNA and several other health insurers are changing their rules to allow young adults up to age 26 to be included on their parents' health care plans, according to a report in *USA Today*. This move, the insurers say, will keep these young people from falling into a coverage gap between graduating college and landing a job.

The provision takes effect on the first day of a plan year starting six months after March 23, the day the president signed the bill. For employers with calendar-year plans, the change will take effect on Jan. 1, 2011.

The insurers' moves raised questions of whether employees would be taxed on the cost of the coverage if plans expanded coverage before the effective date. However, the IRS recently issued Notice 2010-38, which states that tax-free coverage for employees' children will be extended immediately. This tax-favored coverage is allowed through the end of the calendar year in which the child turns 26, *Business Insurance* reports.

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## In This Edition

- [Health Care Reform](#)
- [Prescription Drugs](#)
- [Health Care Costs](#)

## In Brief

### COBRA NOTICES

The U.S. Department of Labor (DOL) has issued new model notices following the latest COBRA federal premium subsidy extension. The Continuing Extension Act extends the 65 percent federal eligibility period to May 31. The notices include a General Notice, Notice of New Election Period, Model Supplemental Information Notice, Model Notice of Extended Election Period and a Model Updated Alternative Notice. The notices

Before health care reform's passage, only dependent children up to age 19, or those up to age 24 if they were full-time students, were allowed to be covered by their parents' plans.

The notice also states that flexible spending accounts (FSAs) can be changed now to pay for uncovered expenses for dependent children up to age 27. The IRS plans to post new regulations extending that change to employees' nondependent children under age 27.

"We want to make it as easy as possible for employers to quickly implement this change and extend health coverage on a tax-favored basis to older children of their employees," said IRS Commissioner Doug Shulman.

In addition to the coverage changes for employees' children, many insurers say they will no longer cut off participants' coverage, known in the industry as "rescissions."

The health care reform law requires insurers to end the practice in September, but insurers have decided again to act early.

Employers also are finding they need to make some fast changes to comply with some lesser-known provisions.

For instance, employers must now provide time and a place for breastfeeding mothers to express milk at work. The health care reform law, which amended the Fair Labor Standards Act (FLSA), states that the place must be somewhere other than a bathroom. Small employers can be exempt if they can show the rule would create "undue hardship," and compensation during break time is not required. However, the law does not supersede any existing state laws that relate to benefits for workers who are breastfeeding.

This change to FLSA was activated when the president signed the bill on March 23.

Employers should immediately set up an appropriate location, amend break policies and inform managers of the new provisions, according to the law firm Troutman

are posted on the DOL's website:

<http://www.dol.gov/ebsa/cobramodelnotice.html>.

## **TAX CREDIT PREMIUMS**

The IRS has published state average premium rates for small employers who qualify for the new tax credit created by the recent health care reform legislation. The release includes a chart with the average employee-only and family coverage premiums for the small-group market in each state for the 2010 taxable year. View the release at:

<http://www.irs.gov/pub/irs-drop/rr-10-13.pdf>

## **OBESITY CHALLENGES**

A new report finds that Mississippi has the highest rate of obesity at nearly 22 percent, according to the U.S. Centers for Disease Control and Prevention. The state also had the most children in the "overweight" category at 44.5 percent. Oregon had the least obese child population at 9.6 percent. The study found 32 percent of children nationally are overweight, and 16 percent are considered obese.

## **BEFUDDLED BY MONEY**

Many workers are not prepared for retirement and struggle to manage their daily finances, according to a survey by the National Foundation for Credit Counseling. Of those polled, 34 percent, or more than 77 million people, gave themselves a grade of C, D or F in their knowledge of personal finance. The survey also found that one-

Sanders in a recent press release.

third of adults do not put any part of their income away for retirement.

## Prescription Drugs

### Pricey Drugs, Bad Habits Fuel Health Costs

Employers battling the rise of health care cost -- particularly for prescription drugs -- can expect even bigger challenges ahead because of the explosion of the specialty drug market, experts say.

Specialty drugs, used to treat chronic conditions such as diabetes and multiple sclerosis, are becoming more prevalent, and more are on the way, according to Medco, a pharmacy benefit manager. Medco estimates that 30 percent to 40 percent of drugs now being researched are in the specialty category. Some experts predict as much as a five-fold increase in current volumes of these drugs over the next 10 years, according to *Employee Benefit News*.

These specialty drugs often come at a high price, which adds to employers' cost burden for their health care benefits. A recent report by IMS Health announced a 5.1 percent increase in U.S. prescription drug sales in 2009. Nearly 21 percent of total sales came from specialty drugs, IMS reported.

Many experts say employers should prepare for this trend now by implementing cost-control strategies.

"The most knowledgeable plan sponsors recognize the impact of prescription drugs on overall medical costs, and plan sponsors are concerned," said Nick Vasilopoulos, senior vice president of marketing strategy for Medco Health Solutions. "Some plan sponsors are requiring members to take a look at utilization."

The use of generics and value-based approaches, which can include dropping the employee copayment for generics, are gaining traction, said Connie Perry, vice president for practice leadership at PharmD.

### NEW QDIA RULES

The DOL plans to change a 2007 rule that requires employers give participants more information on target-date funds. The rule will alter the disclosure requirements for qualified default investment alternatives (QDIAs) in August.

### ON THE MOVE

For the first time in six years, a lack of local talent was not the biggest factor for corporate relocations, according to a survey by Atlas Van Lines. More than half (53 percent) of companies cited economic conditions as the biggest influence on relocations in 2009. Also, respondents said the number of relocated workers and their relocation budgets shrank compared with 2008.

### CASH BALANCE BUMP

The number of cash balance plans jumped 359 percent in a six-year span, according to Kravitz, a national retirement plan consultancy firm. The report found that 80 percent of cash balance plans are with firms with fewer than 100 employees. The majority of plans (63 percent) have fewer than 36 participants.

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"Some of our research for companies has shown that 95 percent of all drugs could be filled in as generic," Perry said. "We're starting to find some moments for optimal use and almost full generic utilization."

But a lower price tag doesn't completely solve the problem, according to a Reuters report on a new Express Scripts study. Patient behavior, such as brand loyalty, procrastination and occasional forgetfulness, can significantly add to drug costs, the study found.

Failing to take drugs as directed is one of the biggest contributors, according to the study. Patients who delay or skip treatment can develop more severe problems later. In fact, Express Scripts estimates noncompliance accounts for \$106 billion in health spending annually.

Brand loyalty, which can keep employees from switching to generics, also drives up costs, the study finds. Often, this loyalty develops simply because the drug was the first one to be prescribed by a patient's doctor, researchers said.

Express Scripts estimates that these behaviors account for \$1 out of every \$5 spent on prescription drugs.

## Health Care Costs

### **UBA Survey: Companies Worry About Impact of Costs**

Employers and top decision makers overwhelmingly are concerned about the effect that health care costs are having on their overall corporate costs and their employees, according to a new survey by United Benefit Advisors (UBA).

The 2010 UBA Employer Opinion Survey found 99.4 percent of those polled are worried about the effects of rising health care costs on their profits. Just slightly fewer (97.9 percent) said they were concerned about how these costs would affect

their workers - an increase of nearly 20 percent from two years ago.

The survey also found that:

- Employers in general feel better prepared to communicate and implement complex strategies to deal with health benefits.
- Employers are less prepared to meet the legislative and regulatory requirements placed upon them, and those requirements are becoming increasingly complex.
- Less than one in six employers (16.1 percent) feel the government should develop a universal health care system paid with tax dollars.
- Employers favor allowing U.S. consumers to buy drugs from foreign companies (54.1 percent).
- Employers are more divided on state and/or federal mandates for coverage, with 33.9 percent supporting, 36.1 percent opposing and 30 percent answering "not sure."

"On an encouraging note, there is a trend of employers implementing wellness and health management strategies that they feel are having a positive impact on chronic conditions and the effectiveness of these programs in general," according to William Stafford, UBA's vice president of member services.

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The final regulations and disclosure requirements for this new law remains weeks -- if not months -- away, but HR professionals already are pondering the massive impact of this legislation. For many employers, the first step involves figuring out which employees will be covered, said Peter Cappelli, a professor at the Wharton School at the University of Pennsylvania. In a recent column for *Human Resource Executive Online*, Cappelli notes that many provisions "spill over" into other employment areas. "For example, an employer cannot pay for the costs of the mandated health care through reductions in wages," Cappelli writes, "but how will that be assessed in

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Such attitudes might hint at a possible trend of employers dumping their plans and simply paying the penalty for not covering employees. However, experts warn that this tactic could cost employers more in the end because such a cut would represent a major drop in total compensation for many workers. To keep quality employees, companies would have to bump up salaries, which would increase employers' share of FICA taxes, according to a report in *Business Insurance*.

Termination of a health care plan also would cause employers to lose any wellness tools that could benefit employee productivity in the long term, said Andy Anderson, a partner with Morgan, Lewis & Brokius L.L.P. in Chicago.

Even as employers begin to plot a new course under the umbrella of health care reform, some of the provisions may not see the light of day. A number of states have initiated lawsuits aimed at blocking the individual mandate that emerges in 2014, and more lawsuits are likely to follow.

For now, employers might be best served by not making any rash decisions and scouring the law for hidden opportunities, said Wharton professor Arnold J. Rosoff. "Instead of writhing our hands, look at all the ways we can meet the challenge to deliver health care to the population," Rosoff told *Human Resource Executive Online*. "Change brings pain to people who are too heavily invested in the status quo, but it brings opportunity to everybody else."

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These programs place a greater emphasis on dental health in an attempt to stave off costlier health problems down the road. For years, the "mouth-body connection" was discounted by physicians and carriers, said Dr. Doyle Williams, chief dental officer at Delta Dental of Massachusetts. Yet when one considers that the human mouth carries more than 6 billion bacteria and that a person swallows hundreds of times each day, "it's a little easier to understand how gum disease affects the whole body," he said.

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Still, evidence that a healthy mouth leads to lower health costs is not clear cut, said Dr. Miles Hall of CIGNA Dental.

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Ideas and Information for Human Resources Professionals

## Health Care Reform

### Employers Face Massive Changes Under Health Care Reform Law

As the smoke clears from the passage of landmark health care reform legislation, employers are starting to sift through the final provisions and prepare for significant changes.

The Patient Protection and Affordable Care Act, signed by President Barack Obama on March 23, ushers in a swath of changes to employer-sponsored health care plans -- one of the biggest being a new coverage mandate for employers. Starting in 2014, the legislation requires employers with more than 50 employees to offer affordable coverage to their workers or face a tax of \$2,000 per full-time worker (although the first 30 employees would be excluded from the count).

In 2013, the law eliminates the employer deductible subsidy under Medicare Part D and places a \$2,500 annual cap on flexible spending accounts. In 2014, the law calls for the states to create exchanges to facilitate the sale of plans to individuals who aren't enrolled in an employer's plan and prohibits insurance companies from denying coverage for preexisting conditions.

While many of the law's complex provisions won't become active for years, others will have an effect on

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## In Brief

### DOL POSTS CHIP NOTICE

The U.S. Department of Labor has posted a model notice that some employers must distribute as early as May 1. The notice informs workers of possible state assistance through the Children's Health Insurance Program (CHIP) or Medicaid. To view the form and learn what states offer CHIP/Medicaid assistance, visit <http://www.dol.gov/>

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