HRElements

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Ideas and Information for Human Resources Professionals

Davidson Benefits Planning, LLC

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In This Edition

Compliance

IRS Ends 2010 With Flurry of Activity on Reform

The IRS shut the door on 2010 with a pair of late changes to health care reform regulations that will significantly affect employers with health care plans this year.

Right before Christmas, the IRS announced it would delay enforcement of the new nondiscrimination rules that apply to nongrandfathered fully insured plans under the Patient Protection and Affordable Care Act (PPACA). These rules, which previously applied only to self-insured plans, prohibit plans from discriminating in favor of highly compensated individuals (HCIs) by having different rules or features in regards to eligibility or benefits, according to a news brief by the law firm Drinker Biddle. These nondiscrimination rules became effective for all plans beginning on or after Sept. 23, 2010.

However, the IRS has tabled any enforcement of this rule until it can craft guidance that clears up some lingering questions on the legislation, including how Section 105(h) eligibility and benefit tests should be applied to fully insured plans.

This is good news for fully insured employers, who would face harsher penalties than employers with self-funded plans under the new rules, according to the law firm Spencer Fane Britt & Browne LLP.

Under the previous regulations, HCIs in self-insured plans that did not comply would be individually taxed on some or all of their benefits. "By contrast, if a [fully] insured plan violates the nondiscrimination rules, there are no tax consequences to the affected HCIs," Spencer Fane's Robert A. Browning wrote in a recent news release. "Instead, the employer/plan sponsor is subject to an excise tax equal to $100 per day per non-highly compensated individual who is discriminated against." The

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employer also might face lawsuits by federal agencies or employees, Browning said.

Now, employers won't have to comply with the rules until sometime after March 11, when the IRS closes its comment period.

Debit Cards and OTC Medicines

The IRS also tweaked rules on using flexible spending account (FSA) and health savings account (HSA) debit cards when purchasing over-the-counter (OTC) medicines.

Previously, employees with plans that included FSAs or HSAs were permitted to purchase OTC products at pharmacies or grocery stores. Under PPACA rules that started Jan. 1, employees can only make OTC purchases with these accounts if they have an official prescription from their doctor, except for insulin.

In IRS Notice 2011-05, the agency clarifies that after Jan. 15, employees with debit cards tied to FSA and HSA accounts can continue to use their debit cards to purchase OTC medicines -- but only if they have a formal prescription, according to a report in *Employee Benefit News*.

Wellness

Small Companies Find Smart Ways to Get into Wellness Game

As a new year begins, small businesses face an old problem: rising health care costs and few good options to combat them.

To get a handle on costs, more small employers are starting to delve into wellness programs, even though they face a steeper climb when compared with bigger companies with more resources, experts say.

One easy -- and cost-effective -- measure that small businesses can try is offering incentives to entice workers to improve their health and stay healthy, said Amanda Austin of the National Federation of Independent Business.

"Small businesses are more likely to not even be able to offer insurance in the first place, so to maintain insurance is their first struggle," Austin told FoxBusiness. "They can see between [10 percent and 40 percent] increases in health care costs annually, so they have to look into [incentive programs] to see if they will reduce costs."

Incentives don't have to be expensive to work, Austin said. For instance, while a small company can't set up its own fitness center, it can negotiate for membership discounts at local gyms for its employees.

Frantz Ward, LLP, in Cleveland, started a wellness initiative several years ago after its co-founder, Keith Ashmus, noticed their health insurance carrier was emphasizing healthy lifestyles and wellness incentives. The company started touting healthy habits and initiated "salad days" to encourage healthy eating. Also, Frantz Ward employees who complete the Weight Watchers program receive a $50 check from the company's insurance carrier.

Ashmus said the company hasn't seen a hard-dollar return on its program yet, but it's already been sparking other positive results. "The program is one way of building morale and keeping it high," he told FoxBusiness.

However, a new report indicates that some incentives designed to boost health and help employees make better choices might be losing their punch. The percentage of workers who said a financial incentive would be extremely or very useful when considering a more effective health care treatment dropped from 61 percent in 2009 to 55 percent in 2010, according to a new study by the Employee Benefit

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Research Institute (EBRI). Despite the overall drop, financial incentives remain popular among young people, minorities and low-wage workers, according to a *PLANSPONSOR* report on the EBRI research.

While incentives often serve as the first step in jump-starting a small-scale wellness program, some companies are taking a bigger leap by exploring workplace health clinics -- traditionally a wellness feature available only to big employers.

A recent report published by the Center for Studying Health System Change notes that more employers are expressing interest in banding together to meet minimum threshold requirements needed to set up workplace clinics. These thresholds, which can number in the hundreds or thousands, often can put clinics out of reach for many small businesses. However, by sharing clinics, small and midsize employers can add this feature to their wellness packages, the report states.

Smaller employers also can take advantage of mobile medical vans that travel to different worksites. While this service is not widespread, some experts find the concept very promising, according to the report.

CDHPs

CDHP Success Hinges on Good Information

As consumer-driven plan designs become more commonplace, employees are beginning to seek better information to help them make sound health care decisions.

That's where the employer needs to step in, experts say.

In a recent report published by FierceHealthPayer, the Employee Benefit Research Institute (EBRI) found that nearly 22 million Americans are covered by consumer-driven health plans (CDHPs). A separate report by United Benefit Advisors notes that the number of CDHPs in 2010 grew at a rate of 18.1 percent nationally. Looking ahead, another industry report by Towers Watson predicts the number of CDHPs will grow another 7 percent in 2011.

As employees shift into these plans, the need for reliable facts on the cost of treatment grows. A steep obstacle to consumer-driven models, however, is the lack of health care pricing transparency in the U.S. health system, experts say.

"The way health care costs are hidden from the people who need to understand them has got to change," Christopher Parks, founder and CEO of change: healthcare, a company that provides health care pricing information to consumers, told *Human Resources Executive Online*.

Not surprisingly, employees in consumer-driven plans are more likely to research the costs of health procedures than participants in traditional plans, according to the EBRI survey. For instance, 53 percent of CDHP enrollees regularly check to see if their plan would cover a particular treatment, compared with 47 percent of traditional participants.

Several companies, including change: healthcare and Outofpocket.com have developed online tools that offer better access to health care information.

While these can be helpful, the information pipeline should start with the employer, some experts argue.

"An employer should be spending a fair amount of time making certain they give employees choices that allow them to maximize opportunity for savings," said Helen Darling, president and CEO of the National Business Group on Health.

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Despite the growing desire for more health cost information by CDHP participants, a culture of "cost ignorance" still exists nationally, according to a recent analysis of prescription drug purchases reported by the Society for Human Resource Management. The study, sponsored by UnitedHealthcare, found that while 60 percent of Americans who purchase prescription drugs are concerned about costs, 70 percent of those same consumers aren't aware of a drug's cost before they purchase it.

Experts say employers can take a few simple steps to maximize the cost savings offered by CDHPs, such as:

- Providing up-to-date, timely and accurate health care information to employees
- Creating a plan design with a balance of cost sharing and employee engagement
- Offering solid network discounts

In Brief

2011 SALARIES LIKELY WILL IMPROVE
U.S. employees can expect a modest but welcome increase in their salaries for 2011, according to a new report by the Hay Group. The analysis predicts employers will see a median base salary increase of 2.8 percent this year, an improvement upon 2010's 2.4 percent increase. Top achievers can expect a little better, with increases of 3.1 percent.

SLOW FLU START
Flu activity was relatively low this fall, but government officials expect more cases in the weeks and months to come. From Oct. 3 through Dec. 11, most of the influenza cases occurred in the Southeast, according to the Centers for Disease Control and Prevention.

JOB NUMBERS STAY LOW
The U.S. job market is showing signs of improvement, but the change is too small to make any difference in the overall economy in the near future, according to a new Society for Human Resource Management (SHRM) report. SHRM's Leading Indicators of National Employment forecasts that hiring in January 2011 will be up 12 percent in the manufacturing sector and 10 percent in the service sector compared with the same time in 2010. While these rates are the highest they've been in January in three years, "the pace of improvement has not accelerated in the last several months," said SHRM's Jennifer Schramm, indicating that the recent hiring is unlikely to make a noticeable dent in the sluggish economy.

SETTLEMENTS SOAR
The monetary value of the top 10 employment discrimination class-action lawsuits soared in 2010 to $346.4 million, nearly four times the 2009 total of $84.4 million. The biggest private discrimination settlement was $175 million in Velez et al. vs. Novartis Pharmaceuticals Corp., according to the law firm Seyfarth Shaw LLP.

BENEFITS COUNT FOR JOB SEEKERS
Money isn't everything, according to a new study by CareerBuilder. Sixty-eight percent of respondents in a recent poll said a company's benefit package is more important than salary when considering a new job. While only 15 percent of current full-time employees are looking for new jobs, 67 percent said they'd like to change jobs this year for the right opportunity, according to the survey.

BRINGING BACK THE MATCH
Of the nearly 15 percent of U.S. employers that suspended their 401(k) match during the recession, slightly more than 39 percent have restored the match and nearly 38 percent expect to do so in the next six months, according to the Profit Sharing / 401(k) Council of America. The group's report found that 70 percent of companies avoided any change to their matching contributions despite the pressures of a weak economy.

LEAVE IT AT THE OFFICE
Nearly a quarter of American workers say they think a lot about work while they're out of the office, and almost

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one fifth have dreams about work, according to a CareerBuilder survey. Sixteen percent of poll respondents said most of their conversations -- at work or home -- tend to focus on work. While such figures might point to an imbalance of work and home life, nearly 15 percent actually prefer to be at work rather than at home. Nine percent were more concerned about gaining the approval of the boss than their family members, the survey found.

HEART DISEASE, STROKE DEATHS DIP

Deaths from heart disease in the United States dropped 28 percent between 1997 and 2007, thanks largely to better medical treatments, according to the American Heart Association (AHA). Deaths by stroke decreased by 45 percent in the same time period. However, the AHA noted that poor heart health is still a big problem. According to the research, nearly 34 percent of U.S. adults age 20 and older have high blood pressure. Of the 80 percent that know they have high blood pressure, less than half have it under control.

Webinar Series

FEBRUARY WEBINAR: DEPENDENT COVERAGE

Under the Patient Protection and Affordable Care Act, group health plans providing coverage to dependent children are required to make such coverage available until the child's 26th birthday, even if the child can no longer be claimed as the employee's "dependent" for federal income tax purposes.

In the February installment of the UBA Employer Webinar Series, attorneys from Spencer Fane Britt & Browne LLP will discuss the new coverage requirement, the corresponding change in the tax law and the impact of both of these changes on employers sponsoring group health plans, cafeteria plans and health reimbursement arrangements. This webinar is scheduled for 2 p.m. ET on Feb.15.

To learn more, contact Davidson Benefits Planning or visit www.UBAbenefits.com.

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