HR Elements

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Ideas and Information for Human Resources Professionals

Coordinated Benefits Group
Management & Strategy

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In This Edition

Compliance

As 2009 Wraps Up, IRS and Congress Push More Changes to Benefits Laws

As 2009 draws to a close, many HR professionals are focusing on a slew of compliance deadlines and a number of new laws and rules that have emerged this year. Some of the key compliance end-of-year deadlines and changes are:

FMLA: Most recently, President Barack Obama signed a Defense Department bill that included an expansion of the Family & Medical Leave Act (FMLA). The change permits employees to take up to 12 weeks of leave when a spouse, child or parent on active military duty is deployed to a foreign country. The expansion also allows employees up to 26 weeks to care for relatives who are discharged from the military and whose service worsened a prior medical condition.

HIPAA: In early November, the Department of Health and Human Services (HHS) published an interim final rule that reflects HIPAA rule changes included in this year's federal stimulus legislation. The new rule creates new categories of violations and tiered civil penalties on covered entities and revises limits on the authority of the HHS secretary to impose penalties. The rule also changes the penalty costs. They range from \$100 to \$50,000, with a maximum penalty of \$1.5 million per calendar year. These rules take effect Nov. 30 for violations that occur on or after Feb. 18, 2009.

RMD Deadline: Employers who sponsor defined contribution plans must decide how to handle required minimum distributions (RMDs) by Nov. 30, according to recent IRS guidance. This deadline springs from the Worker, Retiree and Employer Recovery Act of 2008 (WRERA), which waived the 2009

RMD. Congress passed the law to avoid forcing retirees to pull out retirement funds that had been ravaged by the market downturn. Now, employers must decide how to handle the 2009 distribution. According to Spencer Fane Britt & Browne, employers can:

- Allow participants to choose whether or not to receive distributions that include the 2009 RMD
- Make the distribution as if there were no waiver
- Stop any distribution that consists solely of the 2009 RMD, or
- A combination of the above

Mental Health Parity: Plans starting on or after Oct. 3, 2009, must provide mental health and substance-abuse coverage that meets more stringent parity requirements.

COBRA: Unless Congress acts, the federal subsidy will expire at the end of the year, and employers will revert to pre-subsidy practices and notices.

Michelle's Law: Group health plans with plan years beginning on or after Oct. 9, 2009, must provide continued dependent-child coverage for college students who take a "medically necessary" leave of absence. This law applies to all insured and self-insured plans that provide dependent-child coverage to full-time college students.

Smoking Cessation

Success Hinges on Identifying Willing Workers

When it comes to improving employees' health, employer-sponsored smoking-cessation programs can make a real difference. The biggest challenge to these programs, experts say, is tracking down the smokers.

A recent report by the National Business Coalition on Health (NBCH) finds that health plans report that the range of smoking rates covered in their populations averages 4 percent. However, the Centers for Disease Control and Prevention estimates that 21 percent of the U.S. population smokes.

"Tobacco cessation is a complex issue for employers and health plans," said Dennis White, a vice president with NBCH. "There is a significant process from identification of individuals needing support to successful treatment."
Ninety percent of health plans use health risk assessments to identify smokers. Eighty-five percent use disease management programs, and the same number use self-referral, according to the NBCH study. Only 7 percent of those polled said they asked employees at enrollment.

While pinpointing smokers can be challenging for all employers who support a cessation program, certain industries can expect to have a higher percentage of smokers. A new study by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA) finds that 45 percent of employees in the food-preparation and serving-related occupations admitted to smoking in the previous month. Second on the list were construction workers and miners at 43 percent. The lowest rates were seen in education, training and library jobs (12 percent) and the life, physical and social science professions (15 percent).

Eric Broderick, acting administrator at SAMHSA, said the study could be used to tailor cessation programs to "specific workplace groups."

Narrowing a program's target group, however, isn't always the best option, according to a labor law expert. "The inclusion of one group of employees in a smoking-cessation program, and not others, could result in allegations of discrimination," said Nickolas Spiliotis, an attorney with the Cozen O'Connor law firm in Houston.

"While smoking habits of employees differ by profession for a number of reasons, a program that provides the right kind of incentives in the form of rebates and discounts, without discriminating against smokers, could increase the health of workers and decrease the cost of health insurance offered by employers," Spiliotis said.

Enrollment Trends

Employers Opt for Higher Premiums, Deductibles, Carve-outs To Cut Costs

Enrollment season for 2010 benefits is shifting into its final weeks, and experts are seeing a number of cost-containing trends emerge.

Moving to plans with higher premiums and deductibles is a popular strategy this year, according to a new survey.

Hewitt Associates expects 2010 health care costs per employee to jump 6 percent from last year to an average of $9,120. Employees should expect to pick up most of that increase, with individual coverage premiums and out-of-pocket expenses rising 10 percent next year, according to Hewitt.

Employers are sticking with wellness programs and are offering incentives for better management of chronic conditions, the survey found.

Industry observers also are witnessing a shift to "spousal carve-out plans," in which a self-funded employer will cover the employee but not the employee's spouse if the spouse can obtain health coverage in his or her workplace.

While this move can cut costs for employers, it's not appealing to workers, experts said, because separate single-coverage plans often cost a couple more than a family plan.

In Brief

REFORM UPDATE

The House of Representatives on Nov. 8 passed a landmark health care reform bill. Attention now shifts to the Senate, where majority leader Harry Reid (D-Nev.) hopes to have a bill finalized sometime in November. However, Sen. Dick Durban (D-Ill.), said it was unlikely that a final bill that combines House and Senate legislation would be finalized in 2009. The House bill would expand coverage to millions more Americans. Insurance and business groups, however, have criticized the plan because it includes a government-run public plan and a series of employer mandates and penalties.

FLU PLANS

Experts are encouraging employers to make contingency plans for employees who contract the H1N1 flu virus. The Centers for Disease Control and Prevention (CDC) recommends that high-risk groups get the vaccine as soon as possible. Employees who fall ill should stay home three to five days, the CDC said. Labor attorneys also point out that employers have the right to send workers home if they show flu symptoms, such as a high temperature.

Tools and Services

To view your HR Web tool click on the link www.benefitspassport.com . If you do not have or have forgotten your user name and password please send a request to info@jaxbenefits.com.

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