



businessnews

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Dear Readers,

By the time this winter edition of businessnews is approved by compliance, gets packaged by Dale Stoll, our graphic designer, and through the printing and mailing process, let's hope that the "winter blahs" are being replaced by the hope of spring. But as I write this, the thermometer reads 20 degrees, there are six inches of snow on the ground, and most of my small business clients tell me they're tired of the "winter blahs", including the "blah, blah, blah" of the Congressional Health Care debate...

And this feeling of being tired of the "blahs of the debate" seems to be true across party lines, particularly among employers and business owners. Across the country, employers appear dissatisfied with a debate they feel has tuned out the needs of small employers and non-profit employers, which have significantly higher health care costs than those of larger corporations.

Todd McCracken, president of the National Small Business Association, said, "As the health care debate went on, they (our members) saw that less and less of what was happening was going to drive down health care costs, which was their overriding concern." There is no easy health care solution for employers, but those who study the issue say the answer may lie, in part, in some form of pooling that allows a sharing of resources and economies of scale, but the primary issue that's driving the cost of insurance is largely being ignored – the underlying COST OF CARE! Let's hope that the next few weeks bring "less heat and more light" to the debate, so employers, as the primary payors of healthcare costs, can begin to see some relief to the ongoing double-digit cost increases.

As always, we at Snider, Fuller & Associates will help sort through the options available to Southeast Ohio and West Virginia employers to allow them to provide "Benefits that Work" at the most affordable price. This issue of businessnews brings you a number of Legislative and regulatory updates on topics covering GINA, the COBRA subsidy extension, Medicare prescription drug notification requirements, dependent eligibility audits, and how to structure an effective 401(k) investment committee.

Please feel free to call us if you want to discuss these or other benefit issues. We will see you in the spring!

Sincerely,

Mark Snider

New Laws and Regulations for 2010

In 2010, there are many changes that administrators of health and welfare plans should be aware of. Previous newsletters have addressed Michelle's Law, Medicare Reporting Requirements, and the Mental Health Parity and Addiction Equity Act. Below are some additional changes.

The Genetic Information Nondiscrimination Act (GINA)



GINA has three provisions that affect employers. First, under Title VII, an employer with 15 or more employees cannot discriminate against employees or applicants based on genetic information including family history information. Employers must post the revised "Equal Employment Opportunity is the Law" poster in a prominent place visible to employees and applicants. The poster is available at:

http://www.eeoc.gov/employers/upload/eeoc_self_print_poster.pdf. Next, group health plans cannot deny enrollment, impose pre-existing condition exclusions or charge a higher premium based on genetic information. Further, group health plans and health insurance issuers in both the group and individual markets cannot request or require genetic information for underwriting purposes or prior to and in connection with enrollment. Finally, if a wellness program rewards participants for completing a health risk assessment (HRA), the HRA must not request any information regarding family medical history because this information is considered genetic information. The HRA is permitted to request family medical history information if no reward is offered.

COBRA Subsidy Extension

On March 2, 2010, President Obama signed H.R. 4691, the "Temporary Extension Act of 2010", into law. This extended the eligibility for the COBRA subsidy for employees involuntarily terminated through March 31, 2010. The law signed in December that extended the date to February 28, 2010 also extended the time period to receive the subsidy from nine months to 15 months, and added two new notifications requirements:

- The legislation provides the opportunity for COBRA beneficiaries, whose subsidy has already expired to receive retroactive coverage if they have not yet paid the full premium.
- The legislation requires a notice to be sent to these individuals to notify them of the extended grace period.
- A second notice is required to be sent to all individuals who were assistance eligible individuals as of Oct. 31, 2009, or later. The purpose is to notify the individuals of all changes to their coverage, including another provision that extends the maximum subsidy period under ARRA from nine months to 15 months.
- The legislation also states that employers can offset future COBRA premiums or issue refund checks for those who have overpaid the COBRA premium. This clarification is appropriate, since in some cases a beneficiary whose subsidy expired Nov. 30 may have paid the full premium in December and is now due a refund of the overpayment as a result of this legislation.

The law signed on March 2 also changes the eligibility to receive premium assistance for those who have experienced a reduction in hours followed by a termination of employment. In order to be considered an assistance-eligible individual, an employee must have experienced a reduction in hours between Sept. 1, 2008 and March 31, 2010. However, the termination of employment must have occurred on or after March 2, 2010.

Individuals affected by both 1) a reduction of hours between Sept. 1, 2008 and March 31, 2010 and 2) termination of employment on or after March 2, 2010 are required to receive a notice informing them of the opportunity to apply for the subsidy. The application for the subsidy must be completed by the later of May 1, 2010, 30 days after the notice was provided to the former employee, or by the end of the applicable grace period. The law also clarifies that no payment is required for COBRA coverage between the reduction in hours and the involuntary termination of employment.

The law also authorizes the Secretary or an affected individual to bring a civil action against the plan sponsor or health insurance issuer, as well as assess a penalty up to \$110 per day for failure to comply within 10 days of a determination of eligibility as an assistance eligible individual.

Form 5500



All pension and welfare plans and direct filing entities (DFEs) that are required to submit an ERISA annual return/report (Form 5500 or Form 5500-SF) must do so electronically for plan years beginning on or after Jan. 1, 2009. Beginning January 2010 an all-electronic system called EFAST2 will receive those electronic annual returns/reports. Once the EFAST2 electronic system is online and ready to receive filings, you must file the Form 5500 or Form 5500-SF electronically through EFAST2 for plan/reporting year 2009 and for subsequent plan/reporting years. Prior year delinquent or amended Form 5500 annual return/reports generally must be filed electronically through EFAST2.

Reminder: Medicare Prescription Drug Notification Requirements

A health plan that provides prescription drug coverage to Medicare eligible individuals has two obligations.

1. The plan must complete an online Disclosure Notice to the Centers for Medicare and Medicaid Services (CMS) in which they report whether the plan's prescription drug coverage is creditable or non-creditable compared to the coverage available under Medicare Part D. This must be completed within 60 days of the beginning of the plan year. The online notification system is located at: www.cms.hhs.gov/CreditableCoverage/45_CCDisclosure-Form.asp#TopOfPage. The instruction booklet for the online notification is located at: www.cms.hhs.gov/CreditableCoverage/Downloads/CCUserGuide.pdf.
2. The plan must distribute a Disclosure Notice to Medicare eligible individuals stating whether the plan's prescription drug coverage is creditable or non-creditable compared to the coverage available under Medicare Part D. Model notices are available at: www.cms.hhs.gov/CreditableCoverage/09_CCafterJune15.asp#TopOfPage.

The notice must be sent:

- On an annual basis prior to Nov. 15 (which is the beginning of the Medicare Part D Enrollment Period)
- Prior to a Medicare eligible individual's effective date with the plan
- Upon a change to the prescription drug coverage that would alter its creditable status
- Upon the prescription drug plan's termination
- Upon request

A notice should be sent to any Medicare eligible individuals currently participating through COBRA. Also, it is sometimes difficult to identify Medicare eligible individuals, which could include a spouse or dependent or an individual who is eligible for Medicare due to disability. Therefore, it is recommended that the notice be distributed to all eligible participants.

Be aware that if the plan's prescription drug coverage is non-creditable, there can be significant penalties for participants who do not enroll in Medicare D prescription drug plan when they are first eligible. Prescription drug coverage under a Qualified High Deductible Health Plans (HDHP) that allows for a Health Savings Account (HSA) will be non-creditable, so it is critical to inform employees and dependents who are approaching Medicare eligibility in order to avoid these penalties.

Dependent Eligibility Audits

We work with several school groups. The Ohio School Employee Health Care Board (SEHCB) developed a list of Best Practices required of school districts, one of which is to conduct periodic dependent eligibility audits. Audits confirm whether the employees and dependents currently listed as eligible on an employer's plan should indeed be covered. Removing ineligible people from health plans can achieve cost savings of as much as 7% to 12% of plan costs.

Snider, Fuller & Associates can help you determine whether your group is a good candidate for a dependent eligibility audit, and the type of audit that would best suit your group. There are several ways to conduct an audit, from a simple cost-neutral Amnesty Audit, to a complex fee-for-service Documentation Audit done by a firm specializing in this service. Please contact us if you are interested in more information.



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Can your 401(k) investment committee be more effective?

Investment committees should pause periodically and evaluate their effectiveness. Your consultant typically offers a framework for this discussion, which may consist of the following ingredients:

Define success

There are many approaches to defining success for an investment committee. Some definitions may be very specific and some may be more global, such as maximizing the retirement experience for plan participants. Either approach can work assuming reasonable efforts are made (and documented) toward the stated goal.

Statement of investment beliefs

Key investment-related assumptions should be documented. This is typically done within an investment policy statement which acts as the road map for investment decision-making. It may be appropriate to incorporate within this technical document a statement of investment philosophy as well. Here a committee might comment on core beliefs concerning risk tolerance or any characteristics specific to the needs of the plan participants as a whole.

Selecting appropriate committee members

ERISA suggests that if expert decision-making credentials are not found among the committee personnel, experts should be retained in areas needed. There is also the suggestion that committee personnel be capable of making value-added contributions to the process.

Define committee member roles

Committee member roles should be defined through formal documentation establishing the committee, as in a Committee Charter. This document would identify committee members (typically by title) and delegate responsibilities of the committee. This document can limit the liability of the ultimate decision maker (e.g., the board of directors) and the committee members as well.

Set procedural standards

Identify frequency of committee meetings. For example: "Our investment menu will be reviewed quarterly/semiannually with respect to manager performance relative to industry accepted benchmarks."

The focus of the above is specific to an investment committee, but the same principles can be followed for an administrative committee or an all inclusive 401(k) "steering" committee as well. Please contact your plan consultant for additional assistance.

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IRS Figures for 2010			
2010 Health Savings Account Limits			
	Minimum Deductible	Maximum Out-of-Pocket	Contribution Limit
Individual Plan	\$1,200	\$5,950	\$3,050
Family Plan	\$2,400	\$11,900	\$6,150
Catch-up Contribution for age 55+			\$1,000
2010 Indexed Compensation Levels			
Highly Compensated Employee		\$110,000	
Top Paid Group of 20%		\$110,000	
Key Employee, Officer		\$160,000	
2010 Retirement Plan Limits			
401(k), 403(b), 457, SARSEP Deferral			\$16,500
401(k), 403(b), 457, SARSEP Catch-up Contributions for age 50+			\$5,500
IRA and Roth IRA Contributions			\$5,000
IRA and Roth IRA Catch-up Contributions for age 50+			\$1,000
SIMPLE 401(k), SIMPLE IRA Deferrals			\$11,500
SIMPLE 401(k), SIMPLE IRA Catch-up Contributions for age 50+			\$2,500
Defined Contribution Plan Annual 415 Dollar Limit			\$49,000
Compensation Limit for Contributions / Benefits			\$245,000
Social Security and Medicare Wage Base			\$106,800