

**Ideas and Information for Human Resources Professionals**

HR Elements  
is brought to you  
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**In This Edition**

Benefit Strategies

Obesity

Hiring

In Brief

**Benefit Strategies****Experts: Plan for Today, 2014 and Beyond**

Nearly a year has passed since the president signed the Patient Protection and Affordable Care Act (PPACA), and even though plenty of issues remain unresolved, companies need to take a hard look at their benefits plans and start formulating strategies now, experts say.

A major issue that employers face is whether or not to continue offering health care insurance at all. A 2014 PPACA provision will require employers with 50 or more workers to offer health insurance to their workforce or pay a penalty of \$2,000 for each full-time employee who is not covered or \$3,000 for each employee that receives federally subsidized coverage. Some employers who crunch the numbers might discover that the penalty is the cheaper option. However, cost shouldn't be the only determining factor in whether or not to offer coverage, said Dave Osterndorf, an actuary and benefits expert.

"The reason you are not going to drop coverage is the reason you have coverage today: It's an attractive piece of compensation," Osterndorf told *The Milwaukee Journal-Sentinel*. No penalty exists today, yet many employers offer insurance to supplement wages and recruit and retain a quality workforce, Osterndorf said. Also, employer-provided coverage offers significant tax advantages for employers and employees alike.

Because the penalties don't kick in until 2014 -- and because court challenges and future regulations could drastically alter the impact of the law -- employers shouldn't do anything drastic just yet, advises



Helen Darling, president of the National Business Group on Health. Instead, they should focus on how they're going to control costs in the short term.

"No matter what happens, employers have to analyze how they are going to control costs," Darling told *Workforce Management*. "That does not change."

### **Compare and Contrast**

One of the best ways to maximize the value of a benefits package and make the right choices is by benchmarking a health care plan against other employers' plans. Health care reform has made benchmarking even more critical, experts say, because employers want to know how their competition is coping with the law and to make sure their plans offer the right level of benefits at an acceptable cost.

Benchmarking also can help employers make smart decisions in the long-term because it can measure a wide set of factors that affect health care costs, said Dr. Thomas Parry, president of the Integrated Benefits Institute, in a recent *Employee Benefit News* report.

"Without fully understanding the broader dimensions of health, such as absenteeism and its consequences on productivity, some employers may make bad decisions on keeping or dropping health benefits, especially if they only view health as health care costs," Parry told *EBN*.

Major benchmarking studies, such as the UBA Health Plan Survey -- the nation's largest health plan survey of more than 17,000 employer-sponsored plans -- can help employers analyze the trends in their industry, region and with employers of similar size. By digging into these deeper demographics, employers will have a better handle on how they should shape their plans in light of health care reform, experts say.

### **Plan Now**

In addition to using benchmarks, employers should start creating a solid plan on dealing with PPACA for today and beyond 2014, advises Maureen M. Maly of Faegre & Benson LLP. Maly suggests employers focus on the following issues:

**Understand health exchanges:** Assuming the law withstands legal challenges, individuals will be able to purchase health insurance through exchanges in 2014. Employers need to understand how these exchanges work and how many of their employees would qualify for federal subsidies.

**Prepare for new reporting rules:** PPACA includes a wave of new notices and reporting requirements. While many provisions still require clarification from federal agencies, employers need to be ready to communicate to management and workers whenever the rules are released.

**Update documents:** Employers should make sure their documents, forms and contracts they use comply with the new law and reflect any coverage changes that have been implemented.

**Keep an eye on the future:** Above all, watch what happens in Congress and in the courts (see "Judge Won't Suspend Reform Law" in the **In Brief** section). Most likely, the law's final fate ultimately will be determined by the Supreme Court.

## **Obesity**

### **Employers Seek Visible Results with Weight Management**

Wellness programs can uncover a number of unobserved health problems, such as high blood pressure and high cholesterol. They also can make a dent in a more obvious health problem: obesity.

Obesity rates may reach as high as 51 percent of adults by 2030, said Jamie Curts, a vice president with Spectrum Health Systems. "The cost burden of treating this number of adults for obesity and its related illnesses has the potential to be catastrophic," Curts told SmartBusiness. The condition has been linked to a number of serious health conditions, such as heart attacks and, most recently, with the deadliest form of breast cancer. Estimates of the national cost of treating conditions related to obesity are as high as \$147 billion per year, Curts said.



As employers continue to bolster their wellness options, many are putting a special focus on weight management and exercise. According to a recent survey by Principal Financial Group, 53 percent of surveyed employers were using a weight management program as part of their overall wellness initiative in 2010 - an increase of 25 percent from 2009.

Workers are eager to take advantage of any help they can get, according to another survey by ComPsych. When asked to identify their top health issue for this year, workers named weight loss above other goals, such as reducing stress or quitting smoking, according to a report in *PLANSPONSOR*.

One method that can help employees shrink their waistlines is exercise resources, such as on-site gyms or discounts to off-site facilities. But a new study suggests that other fitness features are needed for companies to realize real success with exercise programs.

The study by San Diego State University found that offering discounts to gyms doesn't always translate into healthier employees. "Mainly what that did was get people to quit their old health clubs and use the free ones," James Sallis, director of the university's Active Living Research program, told *Health Behavior News Service*. Also, on-site programs alone aren't very effective, he said. "If all you do is offer an aerobics class at the end of the day, they may not want to do that. They've seen enough of their co-workers, so they want to do something else."

Instead, companies should consider a wide variety of fitness-related enhancements, such as workplace team sports, updating their facilities to accommodate those who bike to work, and even allowing employees to exercise on company time, Sallis said.

### **Don't Forget the Kids**

Improving wellness options for adults is a step in the right direction, but employers shouldn't forget the family when trying to tackle obesity, Curts said. Dependent children and adolescents account for 15 percent of a typical large employer's health care costs, she said, so it's in employers' best interests to help them, too.

Curts suggests employers can take some simple steps to help their wellness programs trickle down to spouses and kids, such as educating the employee about childhood obesity and how it can affect their child's health.

In the end, the most effective programs will extend to the entire family, Curts said, because healthy children at home will translate into lower costs and a decrease in absenteeism.

## **Hiring**

### **Hiring Lurches Back, But Beware of Pitfalls**

As spring approaches, many employers are poised to start refilling the workforce ranks. But the storms of the recession have significantly shifted employers' hiring priorities and processes, experts say.

Since December, the nation has added about 130,000 jobs per month, and the number of online job listings has jumped by 400,000 to 4.2 million, according to government statistics.

But there's a hitch: While the number of jobs are growing, employers and hiring managers are having a tough time filling them, according to a report in *The Wall Street Journal*. Jobs that took two months to fill before the recession are standing vacant for four times longer, recruiters told the *WSJ*, and managers are widening the net and inviting more applicants to second-round interviews.



These trends, experts say, stem from the desire to land the best candidate - and a belief that there are plenty of good applicants out there.

"Nowadays, if managers speak to a really great candidate, instead of hiring him, they take it as an indication that there must be 10 even better people out there," Todd Safferstone, director of CLC Recruiting, told the *WSJ*.

Some employers, however, are finding the opposite is true. Scientists and certain marketing candidates are in short supply, and some companies are struggling to find a big enough talent pool to fill those positions, according to Paul Marchand, director of talent acquisition for PepsiCo Inc.

### **'Unemployed Need Not Apply'**

A company's hiring practices in the current economic climate can present new challenges, as well. For instance, some companies are shying away from unemployed candidates, preferring instead to pull from the current ranks of their competitors. Helen Norton, an associate law professor at the University of Colorado, told *Human Resource Executive Online* that she's seen plenty of job ads that require candidates to be currently employed.

"Some employers may use current employment as a signal of quality job performance," Norton said. "But such a correlation is decidedly weak. A blanket reliance on current employment serves as a poor proxy for successful job performance."

Although no firm legal obstacle blocks this practice, it might come back to haunt an employer, said Susan McKenna, a partner with the law firm Jackson Lewis.

"People affected by these layoffs were very skilled, valuable, good performers," McKenna told the online magazine. "Why kick these people when they're down? 'We don't hire unemployed people during a recession?' That just sounds bad."

While the threat of liability or backlash from the Equal Employment Opportunity Commission (EEOC) is slim, McKenna said employers should play it safe and avoid this type of policy.

### **Other EEOC Troubles**

Likewise, employers have to be careful with candidates who, though employed, might be the subject of an EEOC complaint in their past, experts say.

Federal regulations forbid employers from discriminating against candidates who face EEOC complaints. Charges are supposed to be confidential, but thanks in part to the free flow of information on the Internet, employers sometimes can stumble across the cases.

Employers are in a tight spot when they know a candidate has an active complaint filed against them, said Reggie Belcher of the law firm of Turner Padgett Graham & Laney in Columbia, S.C. "The wrong decision might force the employer to defend a federal discrimination/retaliation claim," either by a rejected candidate or by another employee who becomes a victim of the applicant's improper conduct in the future, Belcher told *HREO*.

The best policy, according to Brian Muse of the law firm LeClairRyan, is one that treats EEOC charges just like any other protected information when interviewing candidates.

"An interviewer should not ask about prior EEOC charges -- open or closed -- but rather should focus on questions that relate specifically to job skills or that elicit information regarding the applicant's ability to work in the particular job environment," Muse said.

## In Brief

### **JUDGE WON'T SUSPEND REFORM LAW**

Federal Judge Roger Vinson, who recently ruled the Patient Protection and Affordable Care Act is unconstitutional, has put his ruling on hold pending appeal, which was filed by the Obama administration on March 8. The judge's decision means the law remains in effect. Judge Vinson ruled in January that the requirement that Americans purchase health care insurance starting in 2014 or pay a penalty was unconstitutional. A separate federal ruling in the District of Columbia recently upheld the law. Experts say the Supreme Court likely will make the final decision on the law's fate.

### **NURSING SUPPLIES NOW DEDUCTIBLE**

The IRS has ruled that breast pumps and other lactation supplies are now tax deductible. The decision, a reversal of a long-standing IRS rule, means that employees with tax-advantaged accounts such as health savings accounts (HSAs) and flexible spending accounts (FSAs) will be able to use those accounts to purchase nursing supplies. Breast pumps usually cost more than \$200, and the cost of supplies can reach up to \$1,000 in the first year of a baby's life.

### **DISCLOSURE DELAY**

The Department of Labor's Employee Benefits Security Administration has pushed back the deadline for plan sponsors to comply with the new rules regarding retirement plan fee disclosures to Jan. 1, 2012. The rule originally was to take effect on July 16. Officials said the agency needs more time to review comments on proposed interim rules.

### **NO FLEX POLICIES**

A new World at Work study reveals that while workplace flexibility is now widespread in the American workplace, most employers don't have firm flex-work policies. Nearly all (98 percent) of polled employers said they have some sort of flex-time arrangement for employees, but nearly 60 percent don't have a written or formal policy for workers to follow. Some of the most popular flex-work features include compressed workweeks, part-time schedules and telework, the survey found.

### **THINKING LONG-TERM**

Employees are starting to shift their savings strategies to long-term goals, a new analysis suggests. Financial Finesse reports that 24 percent of calls in 2010 to its Helpline service were related to retirement planning, compared with 15 percent of inquiries in 2009. Calls on estate planning, insurance, and other investment-related topics also jumped to 25 percent in 2010 compared with 20 percent in 2009. Calls about debt management dropped from 21 percent to 16 percent in 2010.

### **NO MORE DOMA?**

The Obama administration has announced it will no longer defend cases under the Defense of Marriage Act, which prohibits same-sex marriages. U.S. Attorney General Eric Holder said that his office has determined that the act violates the equal protection portion of the Fifth Amendment. For now, however, the decision will not affect employers' benefit plans, according to Thorp Reed & Armstrong LLP. The act is still a valid law and could be enforced through other methods, the law firm said.

### **HEALTH ACCOUNTS JUMP IN 2010**

Total assets rolled over in health reimbursement arrangements (HRAs) and health savings accounts (HSAs) reached \$4.2 billion in 2010, up from \$4 billion in 2009, according to the Employee Benefit Research Institute (EBRI). The survey found that men had a higher average rollover (\$1,061) than women (\$874), and that people ages 55-64 (\$1,166) rolled over more on average than those ages 45-54 (\$1,003), ages 35-44 (\$927) and ages

21-34 (\$777).

### **IN NEED OF Z'S**

More than a third of Americans get fewer than seven hours of sleep a night, which weakens their health and degrades their performance at work, according to a pair of studies by the Centers for Disease Control and Prevention (CDC). In one of the studies, the CDC found that 37.1 percent of respondents said they got less than seven hours of sleep per night, with nearly 25 percent of those saying they have trouble concentrating during the day. A CDC spokeswoman said people need to maintain a consistent sleep schedule and avoid stimulating activities close to bedtime.

### **ENROLLMENT HELP**

Nearly all (97 percent) employees who participated in individual benefit counseling said the sessions helped them better understand their benefits, according to research by Colonial Life & Accident Insurance Company. Ninety-eight percent of employees said one-on-one benefit counseling is important, with 61 percent calling it "very important."

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