HR Elements®

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Ideas and Information for Human Resources Professionals

Compliance

Spring Brings Bloom of Proposed Rules

Federal regulators have been busy recently with their own version of spring cleaning, announcing tweaks to Medicare notices, health savings account limits and a host of other proposed rules that would affect employer-sponsored health care plans.

The work started in late May when the IRS announced 2012 limits for high-deductible health plans (HDHPs) and health savings accounts (HSAs). The announcement includes figures for accounts attached to high-deductible health plans:

Annual HSA contribution limits: $3,100 for employee-only coverage (up $50 from 2011); $6,250 for family coverage (up $100 from 2011).

Minimum HDHP deductible: $1,200 for employee-only coverage and $2,400 for family coverage (no change from 2011).

Out-of-pocket maximums: $6,050 for employee-only coverage (up $100 from 2011); $12,100 for family coverage (up $200 from 2011).

Part D Notices

The Centers for Medicare and Medicaid Services (CMS) followed the IRS move with new Medicare Part D prescription drug model notices and changed the annual deadline for employers and plan sponsors to deliver those

In This Edition

In Brief

IMMIGRATION RULING

The Supreme Court, by a 5-3 vote, recently ruled that federal law does not pre-empt an Arizona law that penalizes notices to plan participants. The notices inform participants about whether a plan's coverage is considered "creditable," which essentially means "the expected amount of paid claims under the entity's prescription drug coverage is at least as much as the expected amount of paid claims under the standard Medicare Part D benefits," according to April A. Goff of Warner Norcross & Judd LLP.

In addition to the updated notices, CMS changed the annual distribution deadline to Oct. 15.

Medical Records

The Department of Health and Human Services (HHS) is taking comments on a proposed change that would expand the HIPAA Privacy disclosure rule regarding electronic health records. The rule, which amends the Health Information Technology for Economic and Clinical Health Act (the HITECH Act), grants plan participants the right to view an access report that identifies who has viewed their electronic health information. The deadline for comments to the HHS is Aug. 1.

While the rule would create a burden for health care plans and business associates, it has an upside, according to Kate Borten of The Marblehead Group in Massachusetts.

"I think it makes good sense to add the new right to an access report," Borten told *HealthLeaders Media*. "Many health care organizations already provide this voluntarily, and this report, which includes insider access (use, rather than disclosure), is commonly used to identify snoopers."

The EEOC, GINA and More

The Equal Employment Opportunity Commission (EEOC) is dusting off a number of labor-related regulations and has submitted a number of proposals that could impact employers' plans.

For instance, EEOC has proposed a rule that would require employers to keep all relevant employee records until any charge filed under the Genetic Information Nondiscrimination Act (GINA) is resolved, according to a report in Business Insurance. This requirement already exists under Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act (ADA), and therefore would not add an additional burden to employers, the EEOC contends.

The EEOC also is seeking general comment on a slew of other regulations to determine "whether any such regulations should be modified . . . in order to make the EEOC's regulatory program more effective and/or less

companies for knowingly hiring undocumented workers. According to the court's majority opinion, written by Chief Justice John Roberts Jr., Arizona can legally revoke a business' license under the Legal Arizona Workers Act if the company is found to have purposefully hired illegal immigrants. The court also upheld a portion of the law that requires companies to use the federal E-Verify system to check the immigration status of potential workers.

PLATE REPLACES PYRAMID

The federal government has retired the traditional Food Pyramid and swapped it with a new "MyPlate" icon. Like its predecessor, MyPlate encourages Americans to eat balanced meals of fruits, vegetables, grains, protein and a small amount of dairy. The most recent Food Pyramid, unveiled in 1992, had become too complicated for consumers, nutritionists said.

TWIN HEALTH

The cities of Minneapolis and St. Paul, Minn., have been rated the nation's healthiest, fittest cities, according to the annual American Fitness Index. Washington, D.C., and Boston followed the Twin Cities in the rankings. Oklahoma City ranks last, just below Louisville, Ky. The rankings are based on several health factors, including percentage of people who exercise and smoke, and the availability of parks and walking trails.

RETIREMENT HELP?

Nearly half of 401(k) sponsors and decision makers say their company isn't doing enough to burdensome," according to a *PLANSPONSOR* report. In addition to GINA, the comments can cover (as amended) portions of the Civil Rights Act, the ADA, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967 and the Rehabilitation Act.

Health Care Costs

Employers Continue to Look for Savings with Cost Sharing

The recent trend of shifting more health care and benefit costs to employees is showing no signs of letting up, according to new industry research.

A survey by PricewaterhouseCoopers (PwC) found that 22 percent of employers had medical deductibles of at least $1,000 this year for in-network services for their most popular plans, according to a report in *Business Insurance*, compared with just 8 percent in 2008. Twice as many employers (44 percent) imposed that deductible level on out-of-network services this year, the survey found.

"The biggest change in the past two years has been the increase in cost sharing with employees," said Michael Thompson, a PwC principal. "Employers have been careful not to shift premium costs to employees, but have decided that the better way to shift costs is to require those who use health care services to pay more."

A separate report by Milliman also points to an increase in cost sharing in PPO family plans. According to Healthcare Town Hall, a website sponsored by Milliman, the survey found that the average premium cost of those plans this year increased $1,319, or 7.3 percent. Of the total cost increase, employers paid $641, while workers picked up the rest, totaling an increase of $275 in additional cost sharing and an additional $403 in payroll contributions..

Many employers, however, are searching for solutions beyond deductible increases. More employers -- especially midsize companies -- are turning to voluntary benefits to reduce their burden while still offering valuable benefits to their employees, according to a new

prepare employees for retirement, according to a new survey by Transamerica Retirement Management. In addition, 81 percent of polled respondents said they are worried that employees lack the resources necessary to save for a secure retirement. Thirty-five percent said they rated their employees as "somewhat not capable" or "not capable" of making sound retirement decisions.

DISCLOSURE DELAY
The Employee Benefits Security Administration (EBSA) has officially delayed the deadline for plan sponsors to comply with the new fee disclosure requirements for retirement plans. The new rules originally were to apply to plan contracts in existence on or after July 16, but EBSA pushed the deadline to Jan. 1, 2012. EBSA noted it has received numerous requests for the deadline extension.

CONGRATS, GRADS
The jobs outlook for recent college graduates is looking up, according to a new poll. In a sign that the hiring market is improving, three out of four companies expect they will hire recent college graduates. Of those companies looking to hire, 23 percent said they expect to hire more than they did last year, according to a survey conducted by EMC Research. The South leads the nation in anticipated hires for new grads, with 77 percent of Southern companies saying they plan to hire graduates this year.

MISSED MEDS
Two recent studies highlight the costs created by patients who

LIMRA study. While employers traditionally have used voluntary benefits as a morale booster, nearly 80 percent of polled employers said they are most interested in voluntary worksite benefits because they bring no direct costs to their business, an online *PLANSPONSOR* news report noted. Two-thirds said they offer such benefits because it boosts their overall benefits package and allows workers to receive services cheaper than if they tried to buy coverage in the marketplace.

Although the trend of cost sharing is growing, U.S. workers are starting to see improvements in their overall compensation, which is creeping back toward pre-recession levels, according to a recent Buck Consultants survey published on the Society for Human Resource Management's website. Only 9 percent of polled employers still have a pay freeze in place - down from 48 percent in mid-2010. More companies also are restarting bonus programs in an effort to retain top talent, the survey said.

Workplace Policies

Employers Get Flexible to Boost Bottom Line

Rising health care costs and a sluggish economy can tie up employers' hands when trying to craft benefit packages to retain good workers and lure top job candidates. More companies, however, are loosening those financial chains with workplace flexibility.

After a rough recession that saw companies shrink the ranks, more employers are exploring telecommuting, flexible work hours and other accommodations to ease the stress of an overworked workforce and attract new employees, said Kyra Cavanaugh, president of Life Meets Work, a workplace flexibility consultant.

"Employees are maxed out," Cavanaugh told *MarketWatch*. "[Companies] just can't get any more productivity out of employees coming out of the recession, and they are starting to leave their workplace. People are fed up. Market forces are making flexibility a more strategic alternative to some of the other way that companies used to manage growth."

don't stick to their prescription drug regimen. New research by Express Scripts Inc., a pharmacy benefit manager, found that Americans waste as much as $258 billion per year by not taking their prescription drugs properly. A separate study sponsored in part by CVS Caremark and Harvard University estimated that the waste tops $290 billion. If 35 percent of patients in a group of 100,000 don't take their medications properly, one could expect 16 heart attacks, five strokes and seven deaths to result, said Troyen Brennan, CVS Caremark's chief medical officer.

STROKE COSTS
As the U.S. workforce grows older and battles more chronic conditions, employers should expect more costs to arise from workers suffering strokes, according to research by the Integrated Benefits Institute. The group estimates that strokes cost employers $144,722 per claim, with 70 percent of those costs stemming from wage replacement and lost time.

COASTS PAY OFF
U.S. employees working in metro areas on the East and West coasts tended to be paid better than their middle-America counterparts last year, regardless of their field. Workers in California's San Jose-San Francisco-Oakland metro area were the best paid, earning 20 percent more than the average U.S. worker across all occupations, according to a Department of Labor study. Midwestern and Southern workers earned the least. Construction workers saw the largest disparity in pay,

Karol Rose, a principal at FlexPaths, another flex-work consultancy, told *MarketWatch* that companies recognize that workplace flexibility -- especially telecommuting -- can serve business needs beyond boosting morale and recruitment.

"More and more [companies] are realizing cost savings," Rose said. "It's not necessarily a company going from bricks and mortar 100 percent to 100 percent remote working. The key with flexibility from a cost and function perspective for employees and managers is to make sure it works for both parties."

The telecommuting trend has been growing over the past several years, according to a report by the Society for Human Resource Management (SHRM). In 2009, there were 2.9 million employees who mostly worked from home -- an increase of 61 percent over 2005, Kate Lister, principal consultant of the Telework Research Network, told SHRM. Other experts place the total figure of workers who telecommute at least some of the time closer to 33.7 million.

While telecommuting can serve as an inexpensive perk, it's not the perfect solution for every company, experts say.

For instance, if a worker telecommutes only a few times a week, the employer still ends up with the same rent and utility bills, said Jack Phillips, chairman of the ROI Institute. "You can really save tons of money, but you've got to have the real estate savings," Phillips told SHRM.

In addition, managers and even staff might not welcome some flex-work arrangements. A new study by WorldatWork and WFD Consulting found that managers were reluctant to support such policies because they worried that employees might overuse or abuse them. Employees, on the other hand, are hesitant to take advantage of the programs because they worry it will reflect poorly on their work ethic, WorldatWork's Kathleen Lingle told *Employee Benefit News*.

depending on their metro area, with workers in the New York, San Jose and Chicago-Naperville-Michigan City areas earning the most.

TOP REFORM CONCERNS

The proposed health insurance exchanges and the excise tax for high-cost plans under the health care reform law are generating the most attention from employers, according to a new study conducted at the Midwest Business Group on Health's recent annual conference. Thirty-nine percent of respondents said they're paying attention to the creation of the health insurance exchanges, while 18 percent are focused on the excise tax. At least half of those polled said the implementation of the Patient Protection and Affordable Care Act is "important" or "very important" to the management of their health benefits.

Webinars

Wrap Documents for Welfare Plans

Tuesday, July 12 -- 2 p.m. ET / 11 a.m. PT

Welfare plans that are subject to ERISA must be set forth in a written plan document, and participants must be provided a plain-language written summary of the plan that meets the regulatory requirements for a Summary Plan Description (SPD). In addition, welfare plans with more than 100 participants must generally file a Form 5500 annual report each year.

In this webinar, we will review how plan sponsors can use one or more "wrap" documents to both (i) satisfy the "written plan document" requirement for their welfare benefit plans, and (ii) reduce the number of Form 5500 annual reports they must prepare and file each year. We will also discuss how existing insurance certificates, plan summaries and benefit descriptions can be "wrapped" with the information they need to qualify as an SPD under ERISA.

For more information on this webinar, please contact us.

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