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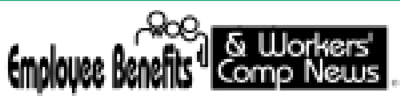
This Just In...

Need help communicating with your employees on increasing health care costs and their role in managing them? Check out the website of the Minnesota Council of Health Plans. This organization, in conjunction with the Minnesota business partnership, has come up with an Employee Communications Kit for Health Care Cost Issues. Although geared toward Minnesota employees, you can adapt the information in the kit to your needs. www.mnhealthplans.org/collateral/Toolkit_Pages4_2.pdf

Wellness Rx: take a vacation! If you need an excuse to take a vacation this year, here's some information to share with your boss. Several studies have demonstrated the health benefits of vacations, including one recently concluded nine-year study that found that middle-aged men who took regular vacations have a lower risk of death from any cause, but particularly from heart disease. A study published in the 1990s in the *American Journal of Epidemiology* found that failure to take vacations posed a hazard for women, too—that 20-year study found women who did not take vacations were more likely to suffer heart attacks and early death.



Vol. 14, Number 2
April/May • 2004

HEALTH BENEFITS

LAWS & REGULATIONS

Benefit Legislation Update

This year, the second year of the current two-year legislative session, promises to be a busy one in the area of benefits legislation. As this newsletter went to press in early March, legislators were considering the following federal benefits-related bills:

- The Medicare Preservation and Drug Price Fairness Act, S. 1974, would repeal a section of the recently enacted Medicare reform act that prohibits the federal government from negotiating with pharmaceutical companies for discounts on drugs for Medicare. It would also repeal health savings accounts (HSAs) and close the uninsured gap in Medicare Part D benefits created by the Medicare reform act.

The bill, sponsored by Democrats who opposed sections of the Medicare reform act, is unlikely to pass in the highly partisan atmosphere of Congress today.

- The Pharmaceutical Market Access Act, H.R. 2427, would allow the reimportation of prescription drugs from Canada. Many drugs, even those manufactured in the U.S., are cheaper in Canada and other countries. The Food and Drug Administration (FDA), which oversees the safety of food and drugs, generally restricts the importation of prescription drugs "...unless they are covered under an Investigational New Drug Exemption (IND) or by an approved New Drug Application (NDA)." Despite this, many individuals and some government entities are purchasing prescription drugs in Canada and other countries to take advantage of lower costs. The House approved this bill in July 2003. At press time, the bill was waiting consideration in the Senate Health, Education, Labor and Pensions Committee. Similar bills include S. 1974 and S. 1992.

The Bush administration opposes drug reimportation. Other government entities, particularly medical programs in states with tight budgets, are pushing for its passage.

Benefit – continued on Page 3

Federal vs. California Leave Laws

Beginning on July 1, California employers must contend with another set of leave regulations. California's Family Temporary Disability Insurance Program (CFTDI), created by SB 1661, takes effect on July 1, 2004. The law gives employees up to six weeks of partially paid family leave to care for a newborn, a newly adopted child or ill family member. Eligible employees will receive 55 percent of wages during their leave, to a maximum of $728 per week. The program falls under the state disability insurance (SDI) program; it required employers to begin payroll deductions for the program on January 1, 2004.

Unlike the California Family Leave Act, which provides only unpaid leave and affects only employers with 50 or more employees, the new law affects ALL employers. However, unlike the unpaid leave program, businesses with fewer than 50 employees do not have to hold a job for a worker who goes on paid family leave.

You might wonder how the California's laws compare with the federal Family and Medical Leave Act (FMLA). The chart below describes some of the differences:

	Family and Medical Leave Act (federal)	Calif. Family Rights Act	CFTDI
Employers Covered	Private employers with 50 or more employees in at least 20 weeks of the current or preceding year. State, local, and federal employers. Local education agencies.	Anyone who directly employs 50 or more employees. The state and any political or civil subdivision of the state and cities.	Any private California employer, regardless of number of employees.
Employees Eligible	Those who have worked for employer for at least 12 months - which need not be consecutive; worked at least 1,250 hours for employer during 12 months preceding leave; and employed at employer worksite with 50 or more employees or within 75 miles of employer worksites with a total of 50 or more employees.	Similar to federal law, including worksite provision.	Any employee eligible for SDI. No other requirements for length of service or hours worked. Some government workers, including school employees, may also be eligible if they contribute into the SDI program.
Leave Amount	Up to 12 weeks during a 12-month period; however, employees with spouses working for the same employer must share leave for birth, adoption, foster care or to care for a parent with a serious health condition.	Similar to federal law, with no requirement for spouses to share leave. State employees may receive up to 12 months leave for pregnancy, childbirth, adoption or care for newborn.	Up to six weeks during a 12-month period. Paid leave for care of newborn must be taken within one year of baby's birth. Employees eligible for FMLA or CFRA leave must take those leaves concurrently with partially paid leave.
Type of Leave	Unpaid leave for birth, placement of child for adoption or foster care, to provide care for employee's own parent (including individuals who exercise parental responsibility under state law), child or spouse with serious health condition, or employee's own serious health condition.	Similar to federal law.	Partially paid leave to care for a seriously ill child, spouse, parent or domestic partner or to bond with a newborn, newly adopted child or newly placed foster child of the employee, spouse or domestic partner.
Intermittent Leave	Permitted for serious health condition when medically necessary. Not permitted for care of newborn or new placement by adoption or foster care unless employer agrees.	Leave may be taken in one or more periods not to exceed 12 weeks.	The law does not specify a minimum leave period – it simply caps leave at six weeks in a 12-month period.
Substitution of Paid Leave	Employees may elect or employers may require accrued paid leave to be substituted in some cases. No limits on substituting paid vacation or personal leave. An employee may not substitute paid sick, medical or family leave for any situation not covered by any employers' leave plan.	For family care and medical leave, employee may elect, or employer may require, substitution of accrued vacation leave or other accrued time off or other paid or unpaid time off negotiated with the employer for employee's own serious health condition (but not other purposes unless the employer and employee agree). Employee may use accrued sick leave.	Employer may require an employee to take up to two weeks of earned but unused vacation leave, subject to conditions of collective bargaining agreements. Employers cannot require employees to use sick leave in place of vacation. Sick leave wages received will reduce family leave insurance benefits and count toward the maximum benefit amount.
Reinstatement Rights	Must be restored to same position or one equivalent to it in all benefits and other terms and conditions of employment.	Similar to federal law.	None – employer not obligated to hold a job open for an employee on leave.
Maximum payment	Not applicable.	Not applicable.	55 percent of regular pay, up to $728 per week. The program imposes a 7-day waiting period before benefits begin; leave during this time is unpaid.

Claim forms for the program will be available from the California Employment Development (EDD) Department sometime in April. For more information, contact your local office of the State Disability Insurance Program (listings available at www.edd.ca.gov/direp/diloc.htm#Phone).

***BENEFIT** – continued from Page 1*

✸ The Senator Paul Wellstone Equitable Treatment Act, S. 486/H.R. 953, named after the late senator and champion of mental health rights, would expand mental health parity requirements by eliminating a loophole in the current law. The current parity law prohibits health plans from having lower limits for mental illnesses than for physical illnesses, but does not address deductibles and copayments. This act would prevent health plans from imposing treatment limitations or financial requirements on mental illnesses unless comparable treatment limitations or financial requirements are imposed on medical and surgical benefits. The act would not mandate mental health benefits, but would require any plan that provides mental health benefits to offer them with the same limitations and conditions as for medical and surgical benefits.

Past efforts at eliminating the parity loophole have failed. Opponents of the bill say mandating parity would increase the cost of mental health benefits, making it likely that many employers would stop offering them. The current law, which has been extended several times, will expire December 31.

✸ The Small Business Health Fairness Act of 2003, H.R. 660, would allow the creation of association health plans. Under the law, trade associations could offer their small business members health insurance plans that would not be subject to state-mandated benefit laws. This would allow associations to offer “bare bones” policies at a lower cost than fully insured small group health plans. Association health plans (AHPs) would also operate on a guaranteed-issue basis.

Proponents say the bill would allow more small businesses to provide their employees with health coverage. Insurance trade and other organizations disagree, saying that the plans will eliminate the safeguards offered by fully insured small health plans and put these plans at a competitive disadvantage. This, and the fact that AHPs must accept all applicants, would increase the chances of “adverse selection” under these plans.

President Bush has advocated for AHPs very publicly. Health provider organizations, some insurance trade organizations and health advocate organizations oppose the measure. The House passed the bill last year; it awaits consideration in the Senate, where it faces more opposition.

Health care tax credits. The 2005 federal budget proposal submitted by the Bush administration in February would allow individuals to take an income tax credit for 90 percent of the cost of buying individual health insurance, up to $1,000 per adult and $500 per child (maximum of 2). The percentage decreases as income increases—the credit phases out at $30,000 for single filers with no dependents and at $60,000 for filers buying a policy covering one or more adults.

The budget proposal would also allow individuals to take a deduction for the purchase of high-deductible health insurance. Individuals must set up a health savings account (HSA). These accounts are available only to those who have no other employer-sponsored or government-provided health coverage.

The proposed budget would also allow individuals to deduct the cost of individual long-term care (LTC) insurance, up to 25 percent of premiums in 2005, increasing to 100 percent by 2008. The proposal would allow employers to take a similar deduction for employer-provided LTC benefits, if the employee pays at least 50 percent of premiums.

The proposal needs to be introduced as legislation; at press time, this had not occurred. Republican leadership will likely support the proposal; however, many Democrats oppose HSAs. ❑

Smaller health plans must comply with HIPAA’s privacy provisions by April 14 of this year. The Health Insurance Portability and Accountability Act of 1996, commonly known as HIPAA, has become effective in stages. On April 14, plans with less than $5 million in annual premiums and self-insured plans with less than $5 million in annual claims will fall under the law. The law prohibits the disclosure of individually identifiable health information except where needed for treatment, payment and plan operations. It covers all types of health benefit plans and flexible spending accounts (FSAs).

Although responsibility for compliance rests primarily with insurers and self-insured entities, the law does require employers to notify all employees and their dependents of their privacy rights under HIPAA. Your insurer (or third-party administrator, for self-insured plans) can probably provide appropriate forms. Employers will also want to verify that insurers and other business associates that may have access to protected health information (such as a third-party administrator or COBRA compliance administrator) comply with HIPAA regulations. To protect your organization, verify that your contracts with business associates require them to safeguard protected health information (PHI) to prevent its unauthorized use or disclosure.

The law also requires employees to have access to their PHI. They may review it, amend it and receive an accounting of its use and disclosure. Therefore, employers need policies and procedures to allow employees to gain access to their PHI and receive an accounting of its use and disclosure. Employers must store this PHI separately from other employee records and limit its access to those with a need to know for purposes of treatment, payment of benefits or plan operations.

For more information on HIPAA compliance, visit the Department of Labor’s Compliance Assistance section at www.dol.gov/ebsa. ❑

Safety Quiz for Office Workers

Although office workers face few life-threatening workplace hazards, the National Institute of Occupational Safety and Health has found that data-entry workers are subject to "repetitive exertions, awkward postures, glare and poor illumination." Over time, these conditions can lead to musculoskeletal disorders (MSDs) and eyestrain.

Good equipment and thoughtful workstation design can do a lot to prevent work-related injury and discomfort, and may make your employees more productive. The following quiz can help employees who frequently use a computer spot potential problems in their workstation. Remember, employees come in all sizes; they should be able to tailor their workstations to their specific needs.

Half of workers report eyestrain.

A 1999 review by the National Institute of Occupational Safety and Health (NIOSH) found that although 50 percent of video display terminal (VDT) users reported at least occasional symptoms of eyestrain, NIOSH found "little evidence of patho-physiologic or enduring functional changes in the visual system that can be connected with VDT use." In layman's terms, using a computer screen may make your eyes hurt on occasion, but it won't do permanent damage.

Take the Quiz

1 I have to look up to see my computer screen when seated. ❍ Yes ❍ No

2 I can read text on my screen without leaning my head, neck or trunk backward or forward. ❍ Yes ❍ No

3 I see glare on my computer screen. ❍ Yes ❍ No

4 My mouse or trackball fits my hand well and is easy to operate. ❍ Yes ❍ No

5 I need to stretch my arms to reach my keyboard and/or input device (mouse or trackball). ❍ Yes ❍ No

6 My elbows are bent, forearms parallel to the floor, when I type or use the mouse. ❍ Yes ❍ No

7 My wrists rest on a rounded, padded wrist rest OR I can type comfortably, keeping my wrists straight, without a wrist rest. ❍ Yes ❍ No

8 Any documents I need to look at while typing are resting flat on my desk. ❍ Yes ❍ No ❍ N/A

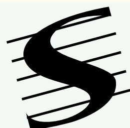
9 I use a headset when I need to use the telephone and computer at the same time. ❍ Yes ❍ No ❍ N/A

10 I can sit close to the keyboard, with feet flat on the floor, while working at my computer. ❍ Yes ❍ No ❍ N/A

If your employees answered "yes" or "not applicable" to Questions 2, 4, 6, 7, 9 and 10, and "no or "not applicable" to Questions 1, 3, 5 and 8, congratulations! You have a very ergonomics-friendly workplace and your office workers will likely experience few problems with work-related musculoskeletal disorders or eyestrain.

Any "no" answers on Questions 2, 4, 5, 7, 9 or 10 indicate problems with the way an employee's workstation is arranged. Most of these problems require only minor adjustments in the positioning of equipment. "Yes" answers on Question 3 (glare on the computer screen) can be fixed by controlling lighting in the room, by upgrading monitors or installing glare-resistant screens, or by providing employees who work at computers with glare-resistant eyeglasses—regardless of whether they need glasses for vision correction.

Improving ergonomics may help you reduce MSDs and eyestrain among office workers. We can analyze your workers' compensation claims history to help you pinpoint any problem areas. For more information, please call us. ❑



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