Employee Benefits Report

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The Care and Feeding of Consumer-Driven Health Plans

Employers like CDHPs because these plans help them slash the cost of providing medical benefits. When used well, consumer-driven health plans help individuals and families get better healthcare while reducing the cost of medical insurance. Here's how to help your employees use their benefits well.

Health Savings Accounts (HSAs) provide consumers incentives to manage their own healthcare costs by coupling a tax-favored savings account used to pay medical expenses with a high-deductible consumer-driven health plan (CDHP) that meets certain requirements for deductibles and out-of-pocket expense limits.

Most CDHPs cover preventive care services, such as routine medical exams, immunizations and well-baby visits, without requiring the enrollee to first meet the deductible. And best of all for the employee, he or she owns the funds in the HSA, which can be rolled over from year to year.

When used well, CDHPs help individuals and families get better healthcare while reducing the cost of medical insurance. And employers like CDHPs because these plans help them slash the cost of providing medical benefits.

Not surprisingly, CDHP adoption is on the rise. Nationally, 19 percent of large employers are currently offering CDHP/HSA plan arrangements, according to the BlueCross BlueShield Association. That is up from 10 percent just two years ago.

Use with Care

But lack of knowledge and fear of costs may be keeping employees from getting the medical care they deserve, even if it's available to them.

The findings of an AcademyHealth research study indicate that enrollment in CDHPs resulted in a reduction of office visits in the first year of enrollment. These reductions in care appear to be indiscriminate, with patients cutting back on both high- and low-priority visits. And the lower the education and income of the employee, the greater the reduction on high- and low-priority visits.

In the study, about 10 percent of individuals indicated that they had postponed or delayed receiving medical care to save money, and 18 percent indicated that they did not go to a physician when they should have, to save money.

The researchers also found

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This Just In…

With new 2010 cost of living and inflation-adjusted benefits, it may be a good time for employers and administrators to review communications to retirement plan participants to determine whether it is necessary to advise participants of these new limits. Additionally, you might want to review your plan documents to confirm whether these limits automatically apply or whether your plan documents need amending to incorporate any changes.

At the end of last year, the IRS issued official guidance regarding cost of living adjustments and inflation adjusted tax rate tables for 2010. Many rates remain the same as in 2009 but there are a few key changes. For specific changes, see the IRS web site, www.irs.gov/newsroom/article/0,,id=214321,00.html

Surprise! You're a Fiduciary. Now What?

When adminstering a retirement plan, you have certain responsibilities that produce potential liabilities. Here's what you can do to reduce the risk.

If you're offering a retirement plan to your employees, congratulations. You're doing a great service. However, (as you may already know) administering a retirement plan can be one of the most challenging tasks a human resources professional or benefits administrator faces. It involves managing assets and meeting a plethora of reporting and regulatory requirements under the Employee Retirement Income Security Act (ERISA).

Even if your organization hires third-party service providers, there are still certain functions that legally make an employer, and perhaps you, a fiduciary.

Who Is a Fiduciary?

Every plan has at least one fiduciary (a person or entity) named in the written plan. The named fiduciary can be identified by office or by name. For some plans, it may be an administrative committee or a company's board of directors.

Attorneys, accountants and actuaries generally are not fiduciaries when acting solely in their professional capacities. The key to determining whether an individual or an entity is a fiduciary is whether they are exercising discretion or control over the plan.

A number of decisions are not fiduciary actions but rather are business decisions made by the employer. For example, the decision to establish a plan, to determine the benefit package, to include certain features in a plan, to amend a plan and to terminate a plan are business decisions not governed by ERISA. When making these decisions, an employer is acting on behalf of its business, not the plan, and therefore is not a fiduciary.

However, when an employer (or someone hired by the employer) takes steps to implement these decisions, that person is acting on behalf of the plan and, in carrying out these actions, may be a fiduciary.

Fiduciaries have important responsibilities and are subject to standards of conduct, including:

- Acting solely in the interest of plan participants and their beneficiaries and with the exclusive purpose of providing benefits to them;
- Carrying out their duties prudently;
- Following the plan documents (unless inconsistent with ERISA);
- Diversifying plan investments; and
- Paying only reasonable plan expenses.

How to Limit Your Liability

With fiduciary responsibilities come potential liabilities. Fiduciaries who don't follow the basic standards of conduct may be personally liable for restoring any losses to the plan, or restoring any profits made through improper use of the plan's assets resulting from their actions.

However, fiduciaries can limit their liability in certain situations. The easiest way is to document the processes used to carry out the fiduciary responsibilities.

There are other ways, too. For example, some plans, such as most 401(k) and profit-sharing plans, can be set up to give participants control over the investments in their accounts, which limits the fiduciary's liability for the investment decisions made by the participants. For participants to have control, they must be given the opportunity to choose from a broad range of investment alternatives.

Your organization can also hire a service provider or providers to handle fiduciary functions, setting up the agreement so that the person or entity then assumes liability for those functions selected. If your organization appoints an investment manager that is a bank, insurance company or registered investment adviser, you are responsible for the selection of the manager, but not liable for the individual investment decisions of that manager. However, your company is required to monitor the manager periodically to assure that it is handling the plan's investments prudently.

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If You Make a Mistake…

Mistakes happen. And the Department of Labor's Voluntary Fiduciary Correction Program (VFCP) encourages employers to comply with ERISA by voluntarily self-correcting certain violations.

The program covers 19 transactions, including failure to timely remit participant contributions and some prohibited transactions with parties in interest. The program includes a description of how to apply, as well as acceptable methods for correcting violations. In addition, the Department gives applicants immediate relief from payment of excise taxes under a class exemption.

In addition, the Department's Delinquent Filer Voluntary Compliance Program (DFVCP) assists late or non-filers of the Form 5500 in coming up to date with corrected filings.

For an overview of both programs, consult EBSA's Web site (http://www.dol.gov/ebsa/)

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that after the introduction of CDHPs, individuals enrolled in the high-deductible CDHP were significantly more likely to discontinue taking antihypertensives (blood pressure medications) and lipid-lowering drugs.

Another study funded by the Robert Wood Johnson Foundation concluded that when consumers are put into CDHPs, they don't cut back on wasteful services, but instead cut back randomly.

It's easy to understand why from the employee's point of view; these plans carry with them the unknown cost of the doctor's office visit and prescriptions afterward.

Fighting Back

It doesn't have to be this way. Here are a few easy and cost-effective steps you can take to help your employees get the most out of their CDHPs:

Design your plan for success:

- ✔ Eliminate potential disincentives to employees.
- ✔ Reduce or eliminate co-payments for certain conditions/therapies.
- ✔ Customize plan design for targeted population segments based on clinical evidence.
- ✔ Integrate with wellness and disease management programs.
- ✔ Focus on the long term – not the next few months.

Educate and inform:

- ✔ Provide clear explanations of your programs and their benefits.
- ✔ Offer on-demand access to education, advice and information.
- ✔ Use multimedia: face-to-face, print, online modeling tools, phone and Web resources to educate plan members.
- ✔ Ensure real-time account visibility and access.
- ✔ Create a single access point for all accounts.

Make it accessible:

- ✔ Offer a choice of convenient payment options.
- ✔ Arrange for convenient prepaid payment cards.
- ✔ Offer transactional capabilities that enable direct provider payment or direct deposit reimbursement.
- ✔ Provide access to live and expert customer service, by email or phone.

Bottom Line: HSAs and CDHPs offer advantages for employers and employees alike. Ensure that your employees are getting the most from their plans with a strategy of design, education and access. ■

Enrollment & Coverage Trends

- **The number of people with HSA/CDHP coverage rose to eight million in January 2009, up from 6.1 million in January 2008, 4.5 million in January 2007, and 3.2 million in January 2006.**
- **Between January 2008 and January 2009, the fastest growing market for HSA/CDHP products was large-group coverage, which rose by approximately 35 percent, followed by small-group coverage, which rose 34 percent.**
- **In two market segments – individual and large-group – over 85 percent of enrollees in HSA/CDHP plans were in preferred provider organization (PPO) products.**
- **Approximately 76 percent of enrollees in small-group HSA/CDHP plans were in PPO plans.**
- **Overall, PPOs (83 percent) and health maintenance organizations (HMOs) (10 percent) were the most popular CDHP types.**

Source: Center for Policy and Research, America's Health Insurance Plans ■

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Tips for Employers with Retirement Plans

Here are a few questions to help you avoid potential problems before they arise:

- Have you identified your plan fiduciaries, and are they clear about the extent of their fiduciary responsibilities?
- If participants make their own investment decisions, have you provided sufficient information for them to exercise control in making those decisions?
- Are you aware of the schedule to deposit participants' contributions in the plan, and have you made sure it complies with the law?
- If you are hiring third-party service providers, have you looked at a number of providers, given each potential provider the same information, and considered whether the fees are reasonable for the services provided?
- Have you documented the hiring process?
- Are you prepared to monitor your plan's service providers?
- Have you identified parties with an interest in the plan and taken steps to monitor transactions with them?
- Do those individuals handling plan funds or other plan property have a fidelity bond? ■

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vehicles that will be best for your organization's situation.

4. Follow the progress of the PBGC. Keeping informed can help you plan for the future. All organizations with defined benefit plans and taxpayers will be affected if the PBGC fails or needs a bailout.

Bottom line: The PBGC is not immediately at risk for failure. Future improvements in pension plan oversight and management may improve its outlook. But it's not a bad idea for you to assess your organization's current pension plan and make changes, if appropriate. ■

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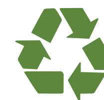

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Do Market Woes Spell Trouble for the PBGC?

The PBGC is on the General Accounting Office's "high-risk" watch list. What does this mean to your company's defined benefit pension plan?

With the financial markets attempting a recovery and the economy still struggling, the last thing your company's employees want to worry about is their pension plans.

Yet the General Accounting Office has decided to keep the Pension Benefit Guaranty Corporation (PBGC) on its "high-risk" watch list – the seventh year in a row that the PBGC has been on that list. The PBGC isn't currently in crisis, but the pension plans of future retirees may be at risk.

The PBGC is a federal government agency, created in 1974, that insures retirement benefits for participants in defined benefit pension plans. In essence, the PBGC is to pension plans what the FDIC is to banks – a last safeguard against failure. The PBCG insures numerous private pension plans and also serves as trustee for many plans that have already ended. Its assets, therefore, must be sufficient to "cover" the number of plans and retirees that require payment now, and that may require payment in the future.

The PBGC protects most pension benefits in most defined benefit plans. But not all plans are insured. Typical 401(k)-type retirement plans, for example, are defined contribution plans and so do not fall under the PBGC's purview. Under defined contribution plans, employees bear all of the investment risk.

The PBGC insures some of the largest pension plans in the nation. Some of these plans are well funded for the near term but underfunded for future employees. For example, Detroit auto manufacturers like General Motors operate huge pension plans. If the PBGC is required to take over the pension plan of General Motors, its current $11.2 billion deficit could double.

The PBGC's ability to do its job of insuring pension plans depends upon the performance of its investments, as well as the funding and solvency of large private pension plans. If the market performs poorly, or the PBGC is required to take over very large pension plans that have failed, the PBGC could need a bailout in the future. And that would be bad news for taxpayers and employees.

What It Means for You

Employers can help reduce retirement plan risk by taking the following steps:

1. Determine what pension plans and other types of retirement plans are PBGC backed or not.
2. If your firm offers a defined benefit pension plan, caution employees not to rely solely on the plan for retirement. Employees who currently have only a defined benefit pension plan should consider funding other types of retirement plans, such as IRAs. Having a variety of investments in place can ensure a more secure retirement.
3. Talk to a benefits advisor. An advisor can recommend specific retirement planning

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PBGC: What It Covers and What It Doesn't

The PBGC guarantees "basic benefits" earned before a plan's termination date (or the date the employer's bankruptcy proceeding began, if applicable), including:

- Pension benefits at normal retirement age
- Most early retirement benefits
- Annuity benefits for survivors of plan participants
- Disability benefits (see exception below)

PBGC does not guarantee:

- Health and welfare benefits
- Vacation pay
- Severance benefits
- Lump-sum death benefits for a death that occurs after the date the plan ended
- Disability benefits for a disability that occurs after the plan's termination date (or the date your employer's bankruptcy proceeding began, if applicable)

Legal Limits on PBGC's Guarantees

Generally, PBGC does not guarantee any monthly pension amount that is greater than the monthly benefit your plan would have provided to an employee who retired at normal retirement age. The maximum amount that PBGC guarantees is set each year under the provisions of ERISA. ■