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Presidential Priorities

What to Expect in Health Insurance During Trump 2.0

WHEN DONALD Trump was president during his first term, he tried but failed to repeal the Affordable Care Act, but succeeded in efforts to expand short-term health plans. His administration also attempted to make it easier to form an association for the purposes of purchasing health insurance that was exempt from many of the ACA's requirements for health plans, an effort that was beaten back by the courts.

Now that he's on his way back to the White House, what can we expect for health insurance coverage and regulations during his second term? For certain, there will be a focus on deregulation and efforts to lower costs. Pundits from various trade publications have weighed in on what areas could be ripe for changes under a Trump presidency. Here's a summary.

The ACA

While Trump previously tried but failed to get the ACA repealed, he has indicated that he doesn't want to repeal it but make changes to it this time around. Also, residents in a number of red states are heavy users of ACA marketplace plans, including Florida, Texas and Idaho.

The Biden administration has focused on boosting enrollment in marketplace plans and the president signed legislation in 2022 that extended until the end of 2025 enhanced federal subsidies from the COVID era to help individuals purchase plans.

Thanks to those subsidies, people at the lower end of the income spectrum are often paying no or very low premiums for plans with generous coverage, such as low deductibles and copays, but even middle-income individuals see significant benefits.

With Trump in the White House, and the GOP in a majority in both the House and Senate, those subsidies may not be extended again.

Will alternative plans rise again?

First Trump administration rules allowed individuals to purchase short-term health plans and keep them in place for up to 364 days, which could be renewed or extended for roughly three years. Centers for Medicare and Medicaid Services rules finalized in September 2024 limit short-term health insurance to up to four months.

When originally floated about 10 years ago, short-term health plans were intended to provide temporary coverage for people in between group health plans.

Also, the Trump administration lowered the barriers to entry to association health plans that would be considered single employer plans (and exempt from individual and small-group market rules).

A U.S. District Court in 2019 overturned the regulation and in 2023, the CMS repealed it altogether.

Trump may take another stab at association plans. Sen. Rand Paul (R-Kentucky) has reintroduced legislation that would let any membership organization provide a self-insured, multi-state health plan.

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WISHES YOU A

Happy New Year!

2025



PILLAR
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7110 N Fresno St., Suite 120
Fresno, CA 93720

Phone: 559.436.6441
info@pillarcentral.com
pillarcentral.com

IRS Loosens Preventive Care Coverage Rules

NEW GUIDANCE issued by the IRS expands the types of preventive care benefits that high-deductible health plans are required to cover with no out-of-pocket costs on the part of plan enrollees.

The changes are aimed at reducing out-of-pocket costs for diabetes-related expenses, certain cancer screenings and contraceptives. The guidance, released in two notices — N-2024-71 and N-2024-75 — can result in real savings for Americans.

Benefits under HDHPs typically do not kick in until the enrollee has met their deductible. However, these plans are required to cover a number of preventive care services, as outlined by the Affordable Care Act, without any cost-sharing on the part of the health plan enrollee.

Preventive care expansion

Under notice 2024-75, HDHPs will be required to cover the following at no cost to their enrollees and even before they've reached their deductible:

- Breast cancer screenings for individuals who have not been diagnosed with this type of cancer.
- Continuous glucose monitors for individuals diagnosed with diabetes. Covered monitors must measure glucose levels using a similar detection method or mechanism as other glucometers.
- Insulin products, whether they are prescribed to treat an individual diagnosed with diabetes, or prescribed for the purpose of preventing the exacerbation of diabetes or the development of a secondary condition.
- Oral contraceptives (including emergency contraceptives) and condoms.

The services and items covered by 2024-75 will be added to the other preventive care expenditures that health plans are required to cover under the ACA.

Under notice 2024-71, flexible spending accounts, health reimbursement arrangements and health savings accounts may reimburse for the cost of condoms.

The takeaway

If you offer HDHPs, HSAs, HRAs or FSAs, consider sending out a memo informing your employees of the changes, which are designed to help reduce their out-of-pocket medical expenses.

You should also add the changes to your benefits manual so that your staff know what they are entitled to.

If you are a self-insured employer, you should ensure that your third party administrator is aware of the changes to coverages by HDHPs. As well, plan materials for employers who choose to reimburse the cost of male condoms should ask their administrator to update the plan materials for FSAs, HRAs and HSAs. ❖



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Trump May Float New Regs on Drugs Price-Cut Talks

Drug costs

Trump in the past has supported making it easier to import drugs from lower-cost countries, like Canada, and may pursue rules that would push that forward.

He may also float new regulations that change the parameters of recently started negotiations between the CMS and drug makers for price reductions of commonly prescribed drugs for Medicare beneficiaries.

The first round of negotiations took place earlier this year, helping reduce the prices that Medicare pays for 10 high-cost drugs.

The takeaway

Trump is entering office on the back of his populist policies, and he will have to work with two types of Republicans in Congress: traditional, establishment members and the ones who are not skeptical of the traditional GOP pro-big-business and small-government ideology.

The president-elect will have the power to implement certain regulations that can change the health insurance marketplace, but they have to be written within the parameters of existing law and many changes can, and will, be challenged in court. ❖

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Pregnant Workers Fairness Act Lawsuits Spike

SINCE THE Pregnant Workers Fairness Act took effect in June 2023, there's been a huge spike in lawsuits against employers alleging failure to reasonably accommodate workers covered by the landmark legislation.

In the first 11 months following enactment of the law, the Equal Employment Opportunity Commission received 1,869 complaints from workers who allege their employer failed to provide them with reasonable accommodation under the PWFA, according to an article in *Business Insurance*, a trade publication.

As a result, the EEOC has taken action and between Sept. 10 and Oct. 11, 2024 it initiated four federal lawsuits against companies over alleged violations of the law.

The recent activity should be a wake-up call to employers to put as much effort into complying with this new law as they do the Americans with Disabilities Act, which is similar to the PWFA in that it requires employers to initiate an interactive process with a worker who seeks reasonable accommodations under the act.

The law

Essentially, the PWFA requires employers to make reasonable accommodation for workers if they request it, particularly if they are temporarily unable to perform one or more essential functions of their job due to issues related to their pregnancy or recent childbirth.

“Reasonable” is defined as not creating an “undue hardship” on the employer. “Temporary” is defined as lasting for a limited time, and a condition that may extend beyond “the near future.” With most pregnancies lasting 40 weeks, that time frame would be considered the near future.

What's required

The law requires employers, absent undue hardship, to accommodate job applicants' and employees' “physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions.”

The condition does not need to meet the ADA's definition of disability and the condition can be temporary, “modest, minor and/or episodic.”

The PWFA covers a wide range of issues beyond just a current pregnancy, including:

- Past and potential pregnancies
- Lactation
- Contraception use
- Menstruation
- Infertility and fertility treatment
- Miscarriage
- Stillbirth
- Abortion.

Reasonable accommodation

The law's definition of reasonable accommodation is similar to that of the ADA.

Easy solutions to accommodation

The regulation lays out four predictable accommodations, which would not be deemed an undue hardship in virtually all instances:

- Carrying or keeping water nearby and drinking, as needed;
- Taking additional restroom breaks, as needed;
- Sitting if the work requires standing, or standing if it requires sitting, as needed; and
- Taking breaks to eat and drink, as needed.

The takeaway

The PWFA poses an employment liability risk and employers will need to ensure that they properly handle and respond to accommodation requests under the act.

You should ensure that personnel who are responsible for handling accommodation requests under the ADA are also trained in how to respond to requests under the PWFA. ❖

An Employment Practices Liability Policy may cover the cost of lawsuits filed under the PWFA. Talk to us about your options.



More Employers Cover Weight-Loss Drugs: Survey

THE PERCENTAGE of employers who are covering new and trendy weight-loss drugs has risen in 2024, continuing a trend of increasing coverage despite the costs, according to a new survey.

The study, by Mercer, also found that employers are increasingly covering in vitro fertilization for employees who may be having trouble getting pregnant. And, as costs continue rising on average 5.25% in 2024, employers are taking a number of steps to manage costs.

The fastest-growing component is pharmacy benefit costs, which were up 7.7% after rising 8.3% the year prior. One of the main drivers is diabetes and weight-loss drugs like Wegovy and Ozempic (both made by Novo Nordisk) and Zepbound (made by Eli Lilly).

But, while health plans will generally cover these medications for diabetes, not as many do for weight loss.

The survey found that 44% of employers with 500 or more workers cover these new weight-loss drugs, as well as older medications in the same class like Saxenda (made by Novo Nordisk). That's compared with 41% in 2023.

Weight-loss drugs are covered by 64% of employers with more than 20,000 employees, up from 56% in 2023.

It should be noted that health plans that cover anti-obesity medications saw a 4.8 percentage-point higher increase in their pharmacy spend in 2023 than plans that don't cover the drugs, according to a report by Segal Group.

As a result of costs, employers are requiring pre-authorization and trying to ensure that workers are first prescribed other effective and less expensive treatments. That requires close coordination between clinicians, pharmacy benefit managers and insurers.

Employers are also increasingly covering in vitro fertilization:

- Covered by 47% of firms with more than 500 workers in 2024, up from 45% in 2023.
- Covered by 70% of organizations with more than 20,000 employees, up from 47%.

Cost-cutting strategies

Firms ranked the following as either important or very important:

- Managing high-cost claimants: **86%**
- Managing cost of specialty drugs: **76%**
- Enhancing benefits to improve attraction and retention: **71%**
- Improving health care affordability: **66%**
- Expanding behavioral health care access: **64%**
- Enhancing benefits/resources to support reproductive health: **48%**
- Offering high-performance networks, steering to high-value care: **45%**
- Increasing use of virtual care: **42%**
- Addressing health inequities/social determinants: **36%**

The takeaway

An earlier survey by Mercer, released in September 2024, found that employers had expected a 5.8% increase in health insurance costs, even after implementing cost-reduction measures.

One way employers are trying to address both their and employees' costs is by offering their staff more plans to choose from. In 2024, two in three large employers offered three or more plan choices, up from six in 10 in 2023.

As well, the country's largest employers offer an average of five options, compared to four in the year prior.

The Mercer survey concluded that employers would have to balance two priorities:

1. Focusing on health care affordability and ensuring that their staff can afford their copays, coinsurance and deductibles.
2. Managing their plan costs to keep employees' share of premium reasonable and ensure that the benefits package is within the organization's budget. ❖

GLP-1 PHARMACEUTICALS: The True Cost

Ozempic			
Full list price (fall 2024):	\$969		9.7%
What commercial health plans and Medicare pay*:	\$290		

Wegovy			
Full list price (fall 2024):	\$1,349		2.5%
What commercial health plans and Medicare pay*:	\$649		

* Source: Anti-obesity medication cost report prepared by the U.S. Department of Health and Human Services.

