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NEWSALERT
March 2025 | Volume 3 | Issue 3

Administrative Headaches

Employers Wrestling with Compliance Issues, Leave Laws

A NEW REPORT has found that employers are increasingly wrestling with two challenges in their human resources departments: growing employee benefits fiduciary liability issues, and difficulties in managing employee leaves.

Employers are facing lawsuits by employees who allege they mismanaged their health and wellness benefits, and recently enacted legislation has increased their fiduciary responsibilities, the 2025 “NFP U.S. Benefits Trend Report” found.

Additionally, firms are spending more time ensuring that employee leave requests comply with federal laws, their own state’s laws and their company policies.

Here’s what the report found.

Growing fiduciary risk

Any party with discretionary decision-making authority over the plan or plan assets must adhere to ERISA fiduciary standards and responsibilities, including acting solely in the best interest of plan participants and beneficiaries.

Recent legislative developments have expanded employers’ fiduciary obligations. The Consolidated Appropriations Act of 2021 introduced comprehensive reforms, requiring group health plans and insurers to enhance fee disclosures and pricing transparency.

These laws require employers to ensure their health plans are cost-effective, provide quality care, and comply with mental health parity and pharmacy benefit requirements.

The rules apply to all employer-sponsored plans regardless of the funding methodology selected, whether fully insured or self-insured.

As well, employers are facing legal challenges over allegations that they or their health plans failed to properly vet pharmacy benefit managers, leading to inflated prescription drug costs for employees.

In parallel, there has been a surge in litigation where employees allege that employers have breached their fiduciary duties under ERISA.

Notably, class-action lawsuits have been filed challenging the imposition of tobacco surcharges in employer-sponsored health plans, asserting that such surcharges violate ERISA, the Affordable Care Act and other laws.

Leave administration headaches

Employers are increasingly struggling to manage the complexities of leave requirements thanks to a tapestry of federal and state laws, as well as company policies.

Here’s why it is so challenging:

Unpaid leave laws – The FMLA requires that employees can take job-protected leave for up to 12 work weeks for health reasons or to care for a family member with health issues. In addition to this federal law, states have their own laws that may expand the acceptable reasons for taking leave and providing additional time off.

Paid leave laws – These are typically at the state level, but there are a few cities

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ICHRA Poll Findings

Most Workers Uncomfortable with Cash to Buy Coverage

A RECENT SURVEY found that the majority of employees prefer traditional employer-sponsored health insurance over receiving cash through an individual coverage health reimbursement arrangement (ICHRA) to buy their own coverage on the Affordable Care Act marketplace.

The survey, conducted by Softheon, a health coverage distribution technology firm, and its subsidiary W3LL, found that 80% of respondents would rather have their employer provide health insurance, while only 20% preferred receiving employer funds to purchase their own plan.

The findings also showed that 54% of workers favored their firm offering multiple health plan options, while 26% preferred a single plan.

How ICHRAs work

ICHRAs allow employers to provide tax-free funds that employees can use to purchase their own health insurance on the marketplace or through private insurers.

Employers set a fixed allowance for employees to use toward their health insurance premiums and qualifying medical expenses. Employees then select their own coverage and pay premiums upfront, submitting receipts for reimbursement up to their firm's contribution limit.

The employer's funding is tax-deductible, and reimbursements are tax-free for employees as long as they purchase a plan that meets the ACA's qualifying criteria.

Employee comfort levels with ICHRAs

One of the biggest concerns workers have with ICHRAs is selecting their own coverage:

- 30% of respondents worried about choosing the wrong plan and either getting too much or too little coverage.
- 29% were primarily concerned about paying too much for a plan.
- 63% believed that employer assistance in navigating the ACA marketplace would improve their experience.

ICHRA awareness and adoption

If you plan to offer an ICHRA, you'll want to educate your staff about the arrangements and ensure employees understand that they are responsible for selecting their own individual health insurance plan under an ICHRA. Key points to cover:

Eligibility: Clearly state who is eligible for the ICHRA within the company, including any criteria based on job role or location.

Allowance amount: Specify the monthly or annual ICHRA allowance each eligible employee will receive.

Plan selection process: Guide employees on how to shop for an individual health insurance plan on the marketplace or through other providers, emphasizing the importance of comparing coverage options to find the best fit for their needs.

Reimbursement process: Explain how to submit claims for reimbursement, including required documentation and deadlines.

Impact on premium tax credits: Inform employees how the ICHRA may affect their eligibility for premium tax credits, and how to navigate this aspect when selecting a plan. ❖

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Approach Leave Requests with Care to Avoid Legal Issues

or municipalities that require that certain time off should be compensated to some degree.

Paid leave laws provide benefits for shorter-term absences, while mandated state disability or paid family leave benefits cover leaves for longer-term absences (serious health conditions).

More states are enacting laws that require employers to provide a certain amount of paid sick leave as well.

Employer leave policies – Many employers also have their own in-house rules for leave, such as allowing leave for medical issues, family care, bereavement and bonding with a new child.

The takeaway

The report recommends that employers regularly review vendor contracts to ensure compliance with contract terms and that the plans produce results in terms of cost-containment.

Meanwhile, administration of leave requests must be approached with care to ensure compliance with local and federal law, which takes time. If you have a large workforce, the NFP report recommends tapping tools like technology-supported or outsourced leave management.

Another option is working with a third party administrator. ❖

Medical Stop-Loss Insurance

Specialty Drugs, Expensive Surgeries Driving Costs

EMPLOYERS THAT self-insure their group health benefits, or are in partial self-insured plans called level-funding, are likely to see higher stop-loss insurance renewal rates due to the rapidly increasing costs of specialty drugs and cancer surgery claims.

Stop-loss insurance steps in to pay claims when they reach "catastrophic levels," or if the aggregate amount of claims exceeds a set dollar amount.

The increases in stop-loss insurance rates are also likely to affect group health plan providers, which typically pass on their higher costs to employers.

Executives of Cigna Corp., which provides medical stop-loss coverage to employers, warned of the coming wave of stop-loss rate increases during the company's Q4 2024 earnings call with analysts in late January.

Brian Evanko, the company's chief financial officer, said that Cigna's stop-loss insurance costs had spiked in the fourth quarter.

Cigna's stop-loss cost drivers

- Spending on costly injectable specialty drugs, like Keytruda, an anti-cancer drug, and
- Higher spending on inpatient surgeries for serious conditions such as cancer and heart problems.

Cigna's experience mirrors what's been happening in the overall stop-loss insurance market.

From 2022 through 2024, the overall individual coverage stop-loss insurance premium rates grew at an annualized rate of between 10.4% and 13%, depending on the deductible size, according to the 2024 "Aegis Risk Medical Stop Loss Premium Survey."

Deductibles are usually in increments of $100,000 per claim. The average monthly premium per employee for a $100,000 individual deductible was $210.80 per month last year, while for a $500,000 deductible the cost was $46.30 a head.

Sun Life has similar experience

Sun Life, another stop-loss insurer, has noted equally rising costs:

- Million-dollar claims rose 8% on a claims-per-million-covered-employees basis between 2023 and 2024, and were up 50% over the past four years.
- Average cost of cardiovascular disease treatment was up 33%, higher than expected given medical inflation, and significantly higher than the average cost for all claims, which was 5.9% over the same period.
- Five new drugs entered the 20 high-cost injectable drugs list in 2023; two are used primarily in the treatment of cancer, and one each for immunodeficiency disorders, gout and blood disorders.

Source: "2024 Sun Life Stop-Loss Research Report."

The takeaway

If you are a self-insured employer, you'll want to budget for these higher stop-loss rates and get a good understanding of potential costs and for planning purposes.

You can always tinker with your deductible as well to lower your costs, but that could mean holding more of the bag for any high-dollar claims. But you can also take steps to address your health plan's cost drivers. For example, you can:

- Consider encouraging your employees to engage in programs that focus on general health management, such as monitoring of blood pressure and blood sugar, weight management and exercise to improve their overall health.
- Ensure that your staff has access to mental health services, particularly those dealing with high-cost conditions.
- Ensure plans cover preventive care during pregnancy.
- Provide assistance to employees who are having trouble navigating the health care and health insurance system.

Finally, to understand your potential outlay, you should know the average cost of various high-cost claim conditions. Sun Life's report has extensive lists of how much these types of claims are costing. ❖

Human Resources

How Employers Can Fight the High Cost of Diabetes

DIABETES IS a devastating illness — and not just for those with the disease. Employers are also shouldering massive and increasing direct and indirect costs due to diabetes.

Diabetes afflicts more than 11% of the U.S. adult population, including about 6.3% of full-time workers and 9.1% of part-time workers.

On average, people with diabetes incur annual medical expenditures of $19,736, of which approximately $12,022 is attributable to diabetes, according to a 2024 research paper. People diagnosed with diabetes, on average, have medical expenditures 2.6 times higher than what would be expected without the disease.

As an employer you can take steps to help your staff.

Indirect costs

Employers aren't just paying more in direct health care costs and insurance premiums. They also pay via lost productivity.

On average, diabetics miss 5.5 days more of work than other workers, Gallup estimates. That adds up to 45 million missed workdays, and productivity costs to employers of $4 billion a year.

And for employers, these costs may represent just the tip of the iceberg. The Centers for Disease Control estimates that more than 114 million adults in the U.S. — a third of the workforce — have undiagnosed diabetes or prediabetes.

What can employers do?

The CDC recommends that employers design wellness programs that specifically target improvements in the following areas:

- Exercise and activity levels
- Smoking cessation
- Hypertension reduction
- Blood cholesterol reduction
- High blood glucose reduction
- Weight/obesity

There also are a number of measures employers can take to help mitigate some of the costs to the organization.

1.) **Offer ongoing counseling with professional dieticians.** Employees that regularly meet with dieticians who can help them set small, manageable goals for themselves, make significant and measureable health improvements, according to a 2016 study. The research found that they lost 5.5% of their body weight and reduced blood glucose levels.

2.) **Start a walking club.** The American Diabetes Association recommends that employers encourage company walking clubs with the goal of attending diabetes walk-a-thons like Step Out: Walk to Cure Diabetes, or host a community walk to cure diabetes.

You can find resources, including posters, newsletter articles, training plans and walking guides, at *www.diabetes.org*.

3.) **Encourage self-assessment and screening.** According to the CDC, 30% of people with diabetes aren't even aware of it. Workplace screenings are easy and effective. Many employers provide incentives for workers to participate via reduced insurance copays, or even cash payments.

All screenings should be confidential and you should not penalize employees who have diabetes, as this could violate the Americans with Disabilities Act.

4.) **Encourage smokers to quit.** Diabetics who smoke have far higher medical costs on average than non-smoking diabetics or non-diabetic smokers. Discouraging tobacco use can pay off in the long run.

With so much at stake, a robust workplace program to fight diabetes can generate a significant return on investment.

The American Diabetes Association estimates that preventing or delaying the onset of diabetes in just one prediabetic employee can generate more than $50,000 in direct and indirect cost savings over five years. ❖