Employee Benefits Report

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Better Benefit Communications for Better Employee Satisfaction

Why are benefits communications so important, and what can you do to improve them? Good communications can make the open enrollment period easier for everyone involved. Read on for suggestions.

Why Benefits Matter

- **Employees are looking for other opportunities.** The 10th Annual MetLife Study of Employee Benefit Trends found that approximately one-third of employees hoped to be working for a different employer in 2012. In June, the number of "voluntary quits" reached 2.1 million, up 16 percent from the 1.8 million the Bureau of Labor Statistics recorded in June 2009. As the economy improves, expect higher turnover rates.
- **Benefits can enhance retention.** Employees who are satisfied with their benefits feel more loyalty to their employer. Sixty-one

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This Just In…

The annual Medicare open enrollment period begins on October 15. Employers whose health plans include prescription drug coverage must notify Medicare-eligible employees before that date whether their prescription drug coverage is "creditable coverage." Creditable coverage means the coverage pays, on average, as much as the standard Medicare prescription drug coverage (Part D).

If your employee health plan offers creditable coverage, Medicare-eligible employees can keep their coverage and not pay a penalty premium if they decide to enroll in a Medicare drug plan later. However, they must enroll in a Medicare drug plan within 63 days of dropping or losing their creditable coverage in order to avoid a penalty.

If your drug coverage does not qualify as creditable coverage, you

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percent of employees who were very satisfied with their benefits agreed with the statement, "I feel a very strong sense of loyalty to my employer." Among employees very dissatisfied with their benefits, only 24 percent agreed, found the MetLife study.

A recent Aflac study corroborated these findings, reporting "... workers who are extremely or very satisfied with their benefits program are six times more likely to stay with their employer, compared to those workers who are dissatisfied with their benefits program."

- **Benefits represent a sizeable investment.** Benefits accounted for more than 30 percent of employers' costs of compensation in 2012, according to the U.S. Bureau of Labor Statistics. Health benefits alone accounted for 7.7 percent of private industry employees' total average compensation in March 2012.

Why Communications Matter

The Affordable Care Act requires group health plans to provide eligible employees with a Summary of Benefits and Coverage, or SBC, with enrollment materials starting September 23, 2012. All insurance companies and group health plans will use the same standard SBC form to help individuals compare health plans. You must provide an SBC for every health plan option available to employees. Standardized information will make it easier for employees to compare their options and make more informed benefit choices.

However, your responsibility for benefit information shouldn't end with legally required disclosures. If you consider benefits communications an advertising campaign, are they doing a good job of selling your employees on the value of their benefits?

The majority of employees rate their employers' benefit communications as under par. In fact, the Aflac report found that only nine percent of workers rated their employer's HR department's communications about benefits as "extremely effective." Another 22 percent said their HR department communicated not at all or not very effectively about benefits. It's clear that most employers have room for improvement in their benefit communications.

need to notify Medicare-eligible employees of that fact. You can find model notice letters at www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/Model-Notice-Letters.html. Employers must send these notices to Medicare-eligible active employees and their dependents before the Medicare annual open enrollment period each year, when they first join the plan, and at and other specified times.

For more information on prescription drug coverage, please contact us.

Individual counseling sessions offer the most effective benefits education. Colonial Life & Accident surveyed more than 15,000 workers and found that 96 percent who took part in individual counseling sessions said they understood their benefits better, while nearly half (47 percent) rated their understanding as "significantly improved."

Not every employer has the resources to offer individual counseling, however, and not every employee will participate. How can you make benefit communications as effective as possible?

1. **Set goals.** In addition to fulfilling legal disclosure obligations, what else do you want your communications to achieve? Steer employees toward a consumer-driven health plan? Encourage the use of generic drugs? Use communications to educate employees about these options.
2. **Tailor communications to specific employee groups.** Near-retirees have different concerns than 20-somethings—do your communications address their different needs? Are your communications accessible to employees with disabilities or language barriers?
3. **Evaluate results.** After open enrollment, evaluate your results. Did you meet your goals? Conducting anonymous employees surveys before and after enrollment can help you judge the effectiveness of your communications and where they need improvement.

For more information on employee benefit communications or assistance in planning for your next open enrollment, please contact us. ■

The Care and Maintenance of 401(k) Plans

401(k) plans require a great deal of regular care and maintenance. Administrative mistakes could affect the retirement income of one or more employees or subject your company to regulatory penalties.

Here are a few common 401(k) management mistakes and how to fix them:

1. The plan document has not been updated to reflect recent law changes.
   FIX: Use a calendar to remind you when amendments must be completed. Review your plan document annually. Adopt amendments for missed law changes. Maintain regular contact with the company that sold you the plan.
2. The plan's operations do not match the terms of your plan document.
   FIX: Failure to follow plan terms is a very common mistake. Apply corrections that would place affected participants in the position they would have been without any operational errors. Get an independent review of your operations. Then develop a communication mechanism to make all relevant parties aware of changes on a timely and accurate basis.
3. The plan's definition of compensation is incorrect for some deferrals and allocations.
   FIX: Make corrective contributions or distributions as needed. Perform annual reviews of compensation definitions and provide training for the person or people in charge of determining compensation.
4. Employer matching contributions were not made to all eligible employees.
   FIX: Review the plan document to determine the correct matching contribution formula and compare that to what's being used and make the contributions. Ensure that the plan administrator has the employment and payroll records needed to make the calculations.
5. The plan failed Actual Deferral Percentage (ADP) and Actual Contribution Percentage (ACP) nondiscrimination tests.
   FIX: Initiate an independent review to determine if highly compensated and non-highly compensated employees are properly classified. Make nonelective contributions for non-highly compensated employees as needed, and consider a safe harbor plan.
6. Not all eligible employees are identified and given the opportunity to make an elective deferral.
   FIX: Inspect payroll records to extract the total number of employees, birth dates, hire dates, hours worked and other pertinent information. Also inspect W-2 and State Unemployment Tax returns to see if

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employee counts are accurate. If an employee was not provided the opportunity to make an elective deferral, make a qualified non-elective contribution (QNEC) to the plan on the employee's behalf.

7 Elective deferral distributions exceed amounts under IRC section 402(g) for the calendar year.
FIX: Provide plan administrators with sufficient payroll information, inspect deferrals amounts for plan participants and distribute excess deferrals.

8 You fail to make timely deposits of employee elective deferrals.
FIX: Coordinate closely with your payroll provider to determine the earliest date the deferral deposits can reasonably be segregated from general assets, then set procedures to ensure deposits are made by that date.

9 Participant loans do not conform to plan document and code requirements.
FIX: Review Code section 72(p) and plan loan provisions to ensure provisions meet code requirements. Review all outstanding loans for compliance and timely repayment. You may correct some failures by requiring repayment and/or modifying loan terms.

10 Improper hardship distributions.
FIX: Familiarize plan administrators with hardship provisions designed to help employees who are facing immediate or heavy financial need. Review all hardship distributions to determine whether they meet plan requirements. If not, amend the plan retroactively to allow hardship distributions. If impermissible distributions occurred, have particpants return distribution amount plus earnings.

11 You fail to make additional minimum contributions for top-heavy plans.
FIX: A plan is top-heavy when, as of the last day of the preceding plan year, the aggregate value of the plan accounts of key employees exceeds 60 percent of the aggregate value of the plan accounts for all employees under the plan. If a 401(k) plan is top-heavy, the employer must contribute three percent of compensation on behalf of all non-key employees still employed on the last day of the plan year.

12 You fail to file in a timely fashion a Form 5500-series return and you have not provided a Summary Annual Report (SAR) to all plan participants annually.
FIX: Never assume someone else is filing these forms. Each plan may have a number of individuals providing services, including the CPA, the TPA, attorney, auditors, human resource employees, banker, and financial advisor. The plan administrator must ensure forms are properly filed. If you make mistakes in the administration of your 401(k) plan, you can use the IRS's Employee Plans Compliance Resolution System (EPCRS) to remedy your mistakes and avoid the consequences of plan disqualification.

We can help ensure your benefit plans comply with complex legal requirements. For more information, please contact us. ■

Legal Plans: What's the Verdict?

Legal problems aren't limited to lawsuits—debt, bankruptcy, mortgage refinancing, short sales and family matters can also require legal assistance. A legal plan can help your employees cope…at no cost to your organization.

Although some employee assistance programs (EAPs) provide legal services, benefits are usually very limited. Group legal plans can fill this benefits gap. Before you offer a plan, though, here are a few facts to consider:

1 There are two types of legal plans: an access plan and a legal insurance plan. According to the American Prepaid Legal Services Institute's 2004 survey, most people enrolled in group legal service plans have an access plan, also known as a prepaid legal plan.

This type of plan gives the participant access to an attorney from a preselected network, who will provide a specified number of hours of legal advice or consultations per year at no charge. Typical services might include a simple real estate contract review or simple will. When participants need more in-depth services, they pay the lawyer directly, but the plan

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typically guarantees a discount off the lawyer's usual hourly rates.

Legal insurance plans differ from access plans in several ways. A legal insurance plan is an insurance contract that works like an HMO, where the participant buys an insurance policy, pays monthly premiums and uses a "preferred provider" for services. And like most HMOs, as long as the service you require is covered and you use a network provider, you do not have to fill out claim forms and wait for reimbursement. If you use an out-of-network lawyer, your service will be reimbursed up to a certain (lower) amount.

Legal insurance policies are designed to meet the legal needs of most middle class families. They cover simple family law matters, such as simple wills, uncontested divorces, uncontested adoptions, juvenile court proceedings, minor motor vehicle proceedings (such as speeding, reckless driving, etc.) and IRS audit protection and defense services. Some plans also offer an unlimited number of phone consultations, identity theft services and immigration services.

2 Not everyone can sell legal insurance. Anyone can sell a prepaid legal plan, but only a licensed insurance agent or broker can sell a legal insurance plan. The state's insurance department oversees insurance agents and the plans they sell, giving you a layer of protection that might be missing with a prepaid legal plan.

Some companies sell prepaid legal plans using multi-level marketing. While there is nothing wrong with this per se, if you deal with this kind of company, check how long your salesperson has been in the field before buying a plan. You will want to deal with someone who will be there when you need service, not someone who was seduced into multi-level marketing and might be doing something else in six months.

3 Not all employees will participate. An article in *HR Magazine* reported that participation rates of 15 to 20 percent of the workforce were typical for legal plans. Other sources note that employees tend to opt in and out of legal plans as their circumstances change. For example, employees who plan to adopt or buy a house might buy legal insurance, knowing they could use the contract review services.

By allowing employees to buy a legal plan on a lower-cost group basis, you give them a valuable benefit that helps them balance work/life demands. For more information on legal access plans, legal insurance or other voluntary benefits, please call us.

ERISA Basics

ERISA stands for the Employee Retirement Income Security Act of 1974, a federal law that sets minimum standards for retirement and health benefit plans in private industry. Among other things, ERISA requires individuals who manage plans (and other fiduciaries) to meet certain standards of conduct. The law also contains detailed provisions for reporting to the government and disclosure to participants. Other provisions help assure that plan funds are protected and that participants who qualify receive their benefits.

ERISA has been expanded to include new health laws. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) amended ERISA to give certain former employees, retirees, spouses, former spouses, and dependent children the right to temporarily continue their health coverage at group rates if certain events would otherwise reduce their benefits. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended ERISA to make health care coverage more portable and secure for employees.

Fast Facts

1 ERISA does not require any employer to establish any benefit plan. It only requires those who establish plans to meet certain minimum standards.

2 As a federal law, ERISA takes precedence over any state or municipal laws governing benefits. It does not preclude states or municipalities from enacting their own laws governing benefits. (For example, certain cities, including San Francisco, have laws that require employers to provide health benefits to their employees.)

3 Many businesses rely on professionals to advise and assist them with their employee benefit plan duties. Still, sponsors of 401(k) and other types of pension plans remain generally responsible for ensuring that plans comply with federal law. This makes selecting and monitoring service providers one of an employer's most important benefits-related duties. To assist business owners in carrying out their responsibilities, the Employee Benefits Security Administration (EBSA) provides some pointers at www.dol.gov/ebsa/newsroom/fs052505.html. We can also help—please contact us for more information.

Correction:

The article How to Boost Retirement Plan Participation in our September issue contained some figures that have been updated. Individuals who are at least 18 years old who have not been a full-time student during the calendar year and cannot be claimed as a dependent on another individual's tax return may be able to take a tax credit of up to $1,000 ($2,000 if filing jointly) for making eligible contributions to an IRA or employer-sponsored retirement plan. Their adjusted gross income cannot exceed $28,750 for singles or $57,500 for married filing jointly in 2012.

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