Employee Benefits Report

WFG Benefits INC

1410 Spring Hill Road • Suite 425 • McLean, VA 22102
(703) 847-4500 • (703) 847-4320 fax
www.wfgbenefits.com

Wellness August 2015 Volume 13 • Number 8

Why Stress Is an Employer's Problem

Short-lived or infrequent episodes of stress pose little risk. But when stressful situations go unresolved, the body is kept in a constant state of activation, which increases the rate of wear and tear to biological systems. Ultimately, fatigue or damage results, and the ability of the body to repair and defend itself can become seriously compromised. As a result, the risk of injury or disease escalates.—NIOSH

We all know that continuous exposure to stress damages health. NIOSH, the National Institute of Occupational Safety and Health, reports that it also creates increased risk of injury at work.

According to NIOSH, exposure to stressful working conditions (called job stressors) can have a direct influence on worker safety and health. NIOSH defines job stress as the harmful physical and emotional respons-

continued on next page

This Just In

Expect steeper increases for your group health premiums in 2016. Insurers are predicting claim costs, a key driver of premium costs, to increase an average 7 to 10 percent. Wells Fargo surveyed 65 health insurers, which predicted health claim costs would increase by that much before any plan changes.

Health care costs for a typical family have nearly tripled since 2001, according to actuarial and consulting firm Milliman. In 2015, healthcare costs for a family of four covered by an average employer-sponsored PPO plan averaged $24,671.

Plan changes due to the Affordable Care Act have also affected claim costs. In another survey, by the International Foundation of Employee Benefit Plans, 82 percent of employers surveyed predicted the Affordable

continued on next page

es that occur when the requirements of the job do not match the capabilities, resources, or needs of the worker. It cites the following as possible causes of job stress:

- **Task Design.** Heavy workload, infrequent rest breaks, long work hours and shiftwork; hectic and routine tasks that have little inherent meaning, do not utilize workers' skills, and provide little sense of control.
- **Management Style.** Lack of participation by workers in decision-making, poor communication in the organization, lack of family-friendly policies.
- **Interpersonal Relationships.** Poor social environment and lack of support or help from coworkers and supervisors.
- **Work Roles.** Conflicting or uncertain job expectations, too much responsibility, too many "hats to wear."
- **Career Concerns.** Job insecurity and lack of opportunity for growth, advancement, or promotion; rapid changes for which workers are unprepared.
- **Environmental Conditions.** Unpleasant or dangerous physical conditions such as crowding, noise, air pollution, or ergonomic problems.

Exposure to stress sets off our natural "flight or fight" reaction. The nervous system is aroused and hormones are released to sharpen the senses, quicken the pulse, deepen respiration, and tense the muscles. While this reaction serves an important function in protecting us from immediate danger, long-term exposure to stress can lead to health problems.

Stress-related conditions that could affect your workers include:

- **Musculoskeletal Disorders**

  On the basis of research by NIOSH and many other organizations, it is widely believed that job stress increases the risk for development of back and upper- extremity musculoskeletal disorders.
- **Psychological Disorders**

  Several studies suggest that differences in rates of mental health problems (such as depression and burnout) for various occupations are due partly to differences in job stress levels. (Economic and lifestyle differences between occupations may also contribute to some of these problems.)
- **Workplace Injury**

  Although more study is needed, there is a growing concern that stressful working conditions interfere with safe work practices and set the stage for injuries at work.

What Can Employers Do to Reduce or Minimize Job-Related Stress?

Individuals under stress often display several symptoms. Managers and supervisors can use these as early warning signals of job-related stress:

- Headache
- Sleep disturbances
- Difficulty in concentrating
- Short temper
- Upset stomach
- Job dissatisfaction
- Low morale.

Factors that can help to reduce the effects of stressful working conditions include the following:

- Balance between work and family or personal life
- A support network of friends and coworkers
- A relaxed and positive outlook.

Employee assistance programs (EAPs) can help workers under job-related stress address their problems and find a better work/life balance. A quality EAP can provide counseling and referrals on a broad range of subjects, including personal problems such as substance abuse, financial problems and family conflicts that can also affect job performance. For more information on controlling workplace stress and other factors that can influence worker health and productivity, please contact us. ■

Care Act would increase their healthcare costs by 1 to 6 percent in 2015. Two-thirds of the organizations surveyed had actually done an analysis to determine the ACA's effects on their costs.

Respondents to this survey cited administration, rather than cost, as their biggest Affordable Care Act-related challenge.

Supreme Court Okays Health Insurance Subsidies

In late June, the Supreme Court issued its decision in *King v. Burwell*. The case challenged the legality of subsidies in federally run or federally facilitated health insurance exchanges. The Court ruled the subsidies could stand, a decision that probably saved the exchanges in 34 states from a "death spiral."

The Court Case

The plaintiffs questioned the legality of the healthcare subsidies created by the Affordable Care Act in states that have an exchange run by or facilitated by the federal government. Had the ruling gone the other way, it would have eliminated subsidies in those 34 states.

The Importance of *King v. Burwell*

The Affordable Care Act makes subsidies available to people who buy health plans on an "Exchange established by the State." Based on those five words, the plaintiffs in *King v. Burwell* challenged the legality of subsidies in states without a state-established insurance exchange. The Act makes no provision for subsidies in federally established exchanges. Only 13 states and the District of Columbia have state-established insurance exchanges. The others have either a federally supported state-based program, a transitional partnership program or a federally facilitated marketplace.

If the Supreme Court had ruled in favor of the plaintiffs, the ruling would have eliminated subsidies in states where the federal government is involved in the marketplaces.

The Importance of Subsidies

According to the Kaiser Family Foundation, "People receiving subsidies make up 87% of those who have signed up for coverage for 2015 in states using the federal marketplace." If the Supreme Court had ruled against subsidies in federal exchanges, costs would have gone up dramatically for people who buy their coverage in them. Many would likely drop their coverage.

When that happens in an insurance market, something called a "death spiral" occurs. Only the sickest people—those most likely to use their coverage—keep their insurance. In a working health insurance system, healthy people effectively subsidize rates for less healthy people. When the healthy ones leave the plan, the insurer's costs go up. Soon, insurance costs so much that only the unhealthiest of people—those most likely to use it—will buy it. Eventually insurance becomes so costly that nobody can afford it.

Now that the *King* decision is settled, employers can focus on complying with other aspects of the Affordable Care Act. For more information, please contact us.

Supreme Court Decision Increases Fiduciary Duties

In May, the Supreme Court issued its ruling in *Tibble v. Edison International*. The ruling went in favor of employees, which could make it easier for retirement plan participants to sue employers for using plans that charge excessive fees.

The case involved an employee group that claimed that the administrators of Edison's retirement plan breached their fiduciary duties. Among their many fiduciary duties, plan sponsors must consider cost when choosing investment options for the plan. A group of employees sued Edison because the company's 401(k) plan offered plan participants retail-class mutual funds, when identical institution-class mutual funds were available at lower cost. As a result, Edison employees' savings did not grow as fast as they should have.

The district court where the case originated granted summary judgment for Edison. It reasoned that the plaintiffs' claim was time-barred under ERISA, the Employee Retirement Income Security Act. ERISA requires plan participants to file lawsuits for breach of fiduciary duties within six years of when the breach occurred. At question was whether fiduciaries have a duty to monitor investments on an ongoing basis, if the initial investment was made more than six years earlier.

What *Tibble* Means for Employers

The Supreme Court agreed that plan fiduciaries have an ongoing responsibility to monitor plan fees and returns. This could open the door to more employee lawsuits against their employer for excessive retirement plan fees.

ERISA, the Employee Retirement Income Security Act, creates fiduciary responsibilities for any people or entities who exercise discretionary control or authority over plan management, assets or administration, or anyone who provides investment advice for compensation. Fiduciaries who fail to act in participants' best interests may be personally liable to restore any losses to the plan, or to restore any profits made through improper use of plan assets.

Mistakes that can lead to fiduciary liability lawsuits include:

- Denial or change (especially reduction) of benefits.
- Administrative error.

- Improper advice or counsel.
- Wrongful termination of a plan.
- Failure to adequately fund a plan.
- Conflict of interest.
- Imprudent investment of assets or lack of investment diversity.
- Imprudent choice of insurance company, mutual fund, or third-party service provider.

Avoiding Fiduciary Liability

To avoid fiduciary liability, establish a fiduciary committee and charge it with the following responsibilities:

continued on next page

- Review service providers' performance
- Read any reports they provide
- Check actual fees charged
- Ask about policies and practices (such as trading, investment turnover, and proxy voting)
- Follow up on participant complaints
- Analyze the plan's fees and expenses regularly. The law does not specify a permissible level of fees, but requires that they be "reasonable."
- Make sure each investment continues to fit the objectives outlined in the plan's investment policy statement and that it compares favorably to others in its asset class.
- Ensure your plan offers diversified investment options.
- Verify the plan provides required disclosures to participants, including **the summary plan description, an individual benefit statement (IBS), and a summary annual report (SAR)** to participants. Whenever the plan changes, participants must also receive a **summary of material modification (SMM)** notice. If a blackout period occurs, the plan must provide advance notice to employees that their right to direct investments, take loans or obtain distributions will be temporarily suspended.
- Ensure your plan makes required reportings to the federal government, including the Form 5500, Annual Return/Report of Employee Benefit Plan. The Form 5500 discloses information about the plan and its operation to the IRS, the U.S. Department of Labor, plan participants, and the public. Form 1099-R reports distributions (including rollovers) from a retirement plan. Plan administrators must give a copy to both the IRS and recipients of distributions from the plan during the year.
- Buy fiduciary liability insurance. This specialized coverage fills the gaps left by employee benefits liability (EBL) insurance and directors and officers (D&O) liability insurance. It protects plan sponsors from individual liability and the company from liability. It pays your attorney, court and settlement costs, and gives you access to expert defense.

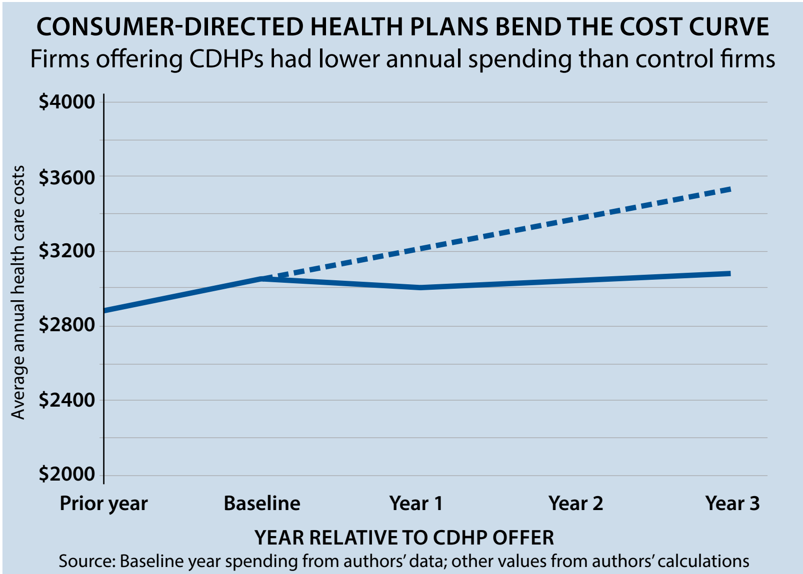
For more information on your compliance responsibilities or fiduciary liability insurance, please contact us.

Consumer-Directed Health Plans Bend the Cost Curve

That's the conclusion of a working paper published by the National Bureau of Economic Research, NBER Working Paper No. 21031.

Researchers studied health spending in consumer-directed health plans covering 5 million and traditional plans covering 8 million employees. They found that total annual health spending fell by 6.6, 4.3, and 3.4 percent in the three years after firms began offering their employees high-deductible health plans paired with tax-advantaged personal medical accounts.

Most of the spending reduction occurred in outpatient care and pharmaceuticals. It was not accompanied by increases in emergency department or inpatient spending. Researchers attributed the spending reduction to "individuals being price-sensitized when faced with relatively high prices.



Employee Benefits Report