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HR News Alert

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Access to Health Care Remains High on List of Employer-Provided Benefits

Employer-provided medical care was available to 86% of full-time employees in the private sector, according to data from March 2015 reported by the U.S. Bureau of Labor Statistics in July. Twenty-one percent of part-time workers in the private sector had access to employer-provided health care benefits.

Access to paid leave continues to top the list of employer-provided benefits for full-time employees working in private industry:

- Paid vacation was available to 91% of full-time workers and 34% of part-time workers.
- 90% of full-time workers and 37% of part-time workers received paid holidays.
- Paid sick leave was offered to 74% of full-time workers and 24% of part-time workers.

More details and survey results are available in the report, 'Employee Benefits in the United States,' which is based on data from the National Compensation Survey. To learn more about employer-provided benefits, visit our section on Employee Benefits.

In this Issue

Wrap SPDs: Satisfying Disclosure Requirements for Group Health Plans

To ensure that employees participating in a group health plan are provided with the most important facts about their benefits, rights, and obligations under the plan, the federal Employee Retirement Income Security Act (ERISA) requires the plan administrator--typically the employer sponsoring the plan--to furnish a Summary Plan Description (SPD). The SPD contains important disclosures and other information about the plan in understandable terms.

Comply with SPD and Plan Document Requirements

Because the benefit summaries, certificates of coverage, and other documents that are typically provided by insurance carriers to plan participants do not contain all of the information required by ERISA, many employers choose to use a Wrap SPD to make sure the plan is ERISA-compliant. The Wrap SPD includes required ERISA provisions and recommended information to "wrap" around the benefit summaries and other materials for each fully insured or self-funded plan option. To be compliant with ERISA's reporting and disclosure requirements, the Wrap SPD and accompanying benefit plan component documents must be distributed to plan participants.

Plan administrators are also required to have a written Plan Document in place that governs how the plan operates, which must be kept on file should a participant or beneficiary request it. A Wrap Plan Document, together with the insurance contracts and other materials from the carrier, fills in the gaps left by the insurer-provided materials to ensure that the plan functions in accordance with federal law.

Other Benefits of Utilizing Wrap Documents

One of the primary reasons that many employers use Wrap Documents is the significant amount of time

and expense involved with preparing plan documents from scratch. Few small- or even medium-sized employers possess the resources or expertise necessary to create and maintain ERISA-compliant plan documents in an ever-changing regulatory landscape. Moreover, hiring a team of ERISA attorneys to draft an SPD and Plan Document is cost-prohibitive for the majority of small companies.

Finally, many employers simply prefer the convenience that comes with maintaining all of their employee benefit plan information within a single location. Since all employee benefits--even those not subject to ERISA--can be included in the Wrap Documents, participating employees enjoy the ability to access key aspects of their benefit information in one place.

Our Benefits Notices Calendar features additional notices and filings required for employee benefit plans under federal law.

3 Guidelines for Managing a Difficult Employee

Managing a difficult employee is one of the biggest challenges an employer can face. While you might be tempted to ignore the situation and hope it improves on its own, it's important to take action before the behavior affects overall workplace morale and productivity (or drives other valuable employees away). These three steps can help you get the situation under control:

1. **Be responsive to the issues and complaints of the offending employee's colleagues.** Although a difficult employee may not be violating company policy, his or her demeanor, attitude, and behavior can be off-putting to others. Document any complaints in detail, and ask for specific examples of the behavior in question. Maintain confidentiality to the greatest extent possible, and discourage the office rumor mill, which can only worsen the situation.
2. **Address the employee in question.** It is understandably uncomfortable to confront a difficult employee, but an in-person meeting is essential to conveying the seriousness of the situation and working with the employee to come to a resolution. Ideally, you will speak with the employee immediately following an incident, so that the event is fresh in his or her mind. Be specific about the behavior, and remember that you are not addressing the employee's underlying character.
3. **Follow an established protocol of steps based on progressive discipline.** If the negative behavior persists following a conversation or counseling session with the employee, move to a verbal and then a written warning. At each step, ask the employee if he or she understands the effect of the behavior, and spell out the consequences. Document each of these conversations, and include your notes and copies of any written warnings in the employee's personnel file.

Absent special circumstances, termination should generally be a last resort, as even difficult employees may be very good at their jobs (and strong contributors to your company's bottom line). The goal of your efforts is not to dismiss the employee, but instead to foster an environment of consideration, politeness, and civility in the workplace. Remember that discipline should be applied consistently and fairly to avoid claims of discrimination.

Visit our section on Motivating Employees for more ideas on how to maintain a positive and productive workforce.

Quick Facts About the Americans with Disabilities Act

The federal Americans with Disabilities Act (ADA) recently celebrated its 25th anniversary. Under the law, private employers with **15 or more employees** may not discriminate against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

Did you know . . .

The ADA also covers medical examinations and inquiries.

- Employers **may not** ask job applicants about the existence, nature, or severity of a disability; however, applicants **may** be asked about their ability to perform specific job functions.
- A job offer may be conditioned on the results of a **medical examination**, but only if the examination is required for all entering employees in similar jobs.

- Medical examinations of employees must be **job related** and consistent with the employer's **business needs**.

Medical records are confidential.

- The basic rule is that with limited exceptions, employers must **keep confidential** any medical information they learn about an applicant or employee.
- Information can be confidential even if it contains **no medical diagnosis or treatment course** and even if it is not generated by a health care professional. For example, an employee's request for a reasonable accommodation would be considered medical information subject to the ADA's confidentiality requirements.

Employees and applicants currently engaging in the illegal use of drugs are not covered by the ADA when an employer acts on the basis of such use.

- Tests for illegal drugs are **not subject** to the ADA's restrictions on medical examinations.
- The law may protect qualified alcoholics and recovered drug addicts who are **no longer engaging** in the illegal use of drugs if they meet the definition of disability.
- Employers may hold illegal drug users and alcoholics to the **same performance standards** as other employees.

Our ADA-Disability section has more information regarding employer obligations under the Americans with Disabilities Act.

Reminder: 2015 Annual Enrollment Counts for ACA Transitional Reinsurance Program Due November 16th

Employers sponsoring certain self-insured group health plans ("contributing entities") that are subject to the Affordable Care Act's transitional reinsurance program **must submit their 2015 Annual Enrollment and Contributions Submission Form and schedule payment for the 2015 benefit year no later than November 16, 2015.**

Contributing Entities

Health insurance issuers and certain self-insured group health plans offering "major medical coverage" that is part of a commercial book of business are contributing entities. A contributing entity must make reinsurance contributions on behalf of its enrollees in plans that provide "major medical coverage," unless one of the exceptions provided under the law applies to such coverage.

For 2015 and 2016, self-insured plans that do not use a third-party administrator to perform their claims processing, claims adjudication, and enrollment functions do not have to pay reinsurance contribution fees.

Upcoming Deadline for 2014 Contributions

As a reminder, the second contribution deadline for the 2014 benefit year (of $10.50 per covered life) is due **no later than November 15, 2015**, for contributing entities that opted not to pay the entire 2014 benefit year contribution in one payment.

More information on the reinsurance contribution process can be found in our section on the Transitional Reinsurance Program.

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