HR Elements

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Ideas and Information for Human Resources Professionals

HR Elements
is brought to you
by **The Clemons Company**

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In This Edition

Plan Options

For Small and Midsize Companies, Self-Funding Demands Solid Strategies

The recent health care reform legislation has changed the benefits game for many employers. Federal regulations have created a wave of new compliance issues, while employers still face the old problem of trying to keep soaring costs in check.

These challenges have prompted many small and midsize employers to take a hard look at an option that once was only feasible for big corporations: self-funding.

According to national statistics, self-funded plans cover nearly 70 million U.S. employees and their families. A recent Kaiser Family Foundation survey notes that small and midsize companies comprise a growing segment of the self-funding market. Between 2008 and 2010, the rate of employers with three to 199 employees that had partially or completely self-funded plans rose from 12 percent to 16 percent, while companies with 200 to 999 workers jumped from 47 percent to 58 percent.

Going alone in a self-funded arrangement can be daunting for many employers, especially those with a smaller workforce. That's why some smaller companies are banding together to cut risk and boost plan flexibility. In a recent *Employee Benefit News* article, benefit expert Samuel H. Fleet notes that a regional captive insurance structure can reduce risk and foster local networks that can provide the right solutions for the small employer. A captive self-funding plan can eliminate the need to hunt down multiple vendors to manage plans and can pool risk among a number of employers, making the plans more stable and less costly.

Employers who prefer a more traditional approach will need stop loss insurance to control the risk of a self-funded plan, Fleet said. Stop loss insurance creates "a ceiling for individual costs, aggregate costs or both," and allows a company to "draw a line in the sand to make sure unexpected expenses do not exceed the resources to pay them."

Choosing the right stop loss coverage, however, harbors its own pitfalls. Employers must choose a vendor that will properly process claims and, most likely, will also provide reinsurance protection. Benefit expert Scott Kirschner wrote in a recent blog that small and midsize employers can make a fatal error in this process: purchasing on price alone. Kirschner offers this example:

"A client knowingly selected a stop loss program that covered claims that were 'paid' for only three months after the plan year. . . . When a large hospital claim occurred in late December, a carrier audit process was triggered, which resulted in a claim payment of $280,000 in early April, four months after the plan year-end. The company incurred the entire liability on that claim that would have been covered under a richer paid contract."

Beyond Stop Loss

Stop loss insurance can add a layer of protection against massive claims and stabilize a plan, but companies that self-fund can employ a few more strategies to keep costs low and help the plan run efficiently, Fleet said. Some options include:

- Take measures to control specialty pharmacy costs (high-cost drugs for diseases such as cancer)
- Use dialysis management specialists, who can help patients receive the best care for the best price
- Focus on chronic conditions, such as diabetes and heart disease
- Periodically audit costs to identify unique problem areas among an employer's workforce

While starting a self-funded plan can be complicated, the benefits can pay off, Fleet said.

"By exploring self-funding options, including joining a captive structure and taking steps to mitigate risk, employers can position themselves to take control of their benefits and rein in costs," Fleet said.

'Financial' Wellness

Employers Cool Worker Stress with Financial Help

For some time, many employers have implemented wellness programs to help improve their employees' bodies. With a rough economy taking a toll on workers, some companies are shifting their programs and adding unique features to help employees protect their bank accounts, as well.

Money troubles from a spouse losing a job or an unexpected personal expense can create profound stress on employees, according to recent research. A poll by the American Psychological Association found that 76 percent of respondents said money causes stress in their lives. A separate study by PricewaterhouseCoopers reported that 43 percent of employees find it difficult to meet their household expenses each month.

Financial problems can bleed into a worker's productivity, prompting absences and tardiness, Mark McAvoy of the Society for Human Resource Management told FOX Business. McAvoy said stressed employees spend about 20 hours a month dealing with financial worries.

To combat the drain from financial stress, some companies are implementing programs that model health wellness programs to help their employees deal with their crises. For instance, Prudential expanded its offerings to include employee assistance programs to help workers cope with financial problems. In 2009, the company went a step further and launched a "Personal Budget Coaching" program, which offers one-on-one financial counseling and helps employees craft a workable personal budget.

Bon Secours Virginia Health System adjusts employee schedules -- either more time off or more work hours -- to help workers deal with their financial challenges. The company also has sponsored an educational workshop that included employees' family members. The moves have worked, Jim Godwin, Bon Secours' vice president for HR, told *Workforce Management*. "They just work better because they're not distracted as much" about their financial troubles, which is vital for a company whose main focus is patient care, he said.

In addition to help with short-term money woes, more companies say they aim to help employees bolster their long-term retirement goals. A 2010 industry survey relating to retirement plans noted that more employers are providing tools to help workers make sound retirement choices, with 56 percent offering online investment advice and 36 percent offering online advice and managed accounts. A majority of firms (83 percent) offer target-date funds, according to the survey.

The bottom line, according to Ian Shaffer of California-based Managed Health Network Inc., is that companies that take action to improve the overall well-being of their employees reap rewards in the long run.

"Many companies are very clearly aware that as the employee goes, so goes the company," Shaffer told *Workforce Management*. "Anything they can do that will enhance the health and [financial] wellness of their employees comes back to them many fold over."

Technology

Social Media, Smart Phones Crack Open Pandora's Box of New HR Issues

Technology generates unprecedented and profitable opportunities for today's employer. Social media can open doors to new customers, while wireless networks and new gadgets can boost communication and streamline productivity.

Yet underneath all this opportunity lurk dangers that can seriously harm businesses if HR departments don't establish sound policies.

While many companies are using social media sites such as Facebook as a new branding and marketing outlet, others have run into trouble when a disgruntled employee is the one making the posts about the company.

In February, the National Labor Relations Board (NLRB) and a Connecticut company reached an out-of-court settlement in a case in which the company fired an employee because she made disparaging posts about her manager on Facebook. According to a *Business Insurance* report, the company agreed to revise its policies to ensure it does not restrict employees from discussing wages, hours or other work-related issues while not at work.

While unions and employee groups may applaud this settlement, it falls short of setting a formal precedent because it never reached a federal labor judge. That means the jury is still out on a slew of similar cases in which employers fired or disciplined employees for posts they made on online social-networking sites.

"The intersection of social media and the office is a potential minefield," Phillip L. Gordon of Littler Mendleson PC told *The Wall Street Journal*. Even if a company is not found to be in the wrong in these cases, "there are reputational risks," Gordon said. "The company can become a poster child for a particular type of employment claim."

The best defense for employers right now, experts say, is a solid social-media policy that clearly explains what the company deems as inappropriate. Once a policy is in place, the employer must inform and train the employees, making them aware of their responsibilities and the risk of violation.

"The NLRB case won't be the last word" on social-media cases, said Jeffrey S. Klein of Weil, Gotshal & Manges LLP in the *WSJ*. "For people who are ignoring this and don't think it's a prevalent issue in the workplace, they need to stop being naive."

Smart with Smart Phones

While online social-networking sites have created a new set of challenges for HR, the mobile devices used to access the Internet have spawned yet another.

More HR staff and employees are transmitting sensitive company data, including personnel information, via mobile devices. As more employees use smart phones, such as iPhones and Droids, hackers have started to target those devices, which generally are more vulnerable than office-based computers, according to a report by the Society of Human Resource Management (SHRM).

"With the rapid evolution of smart phones and tablets, we are in a period of 'devices gone wild,'" Alan Brill of Kroll Ontrack, a data-recovery firm, told SHRM. Brill suggests that companies closely examine what sort of data are being sent via mobile devices and keep in mind the security risks. Also, educating employees about the risks can add another layer of protection.

"Teaching employees to treat company information as being as valuable as their own sensitive personal information goes a long way to keeping your data safe," Brill said.

In Brief

JUDGE RULES REFORM UNCONSTITUTIONAL

A federal judge in Florida has ruled that the Patient Protection and Affordable Care Act is unconstitutional because it requires Americans to purchase health insurance. On Jan. 31, U.S. District Court Judge Roger Vinson ruled that Congress overstepped its constitutional bounds by threatening to levy fines on Americans who don't buy health insurance. Vinson is the second federal judge to strike down all or portions of the law on constitutional grounds. Two other federal judges have ruled in favor of the law, meaning the fight likely will end at the Supreme Court.

PASS THE COSTS, PLEASE

Nearly 63 percent of companies said they are likely or very likely to pass along any costs stemming from health care reform to their employees, according to a new survey by the Employee Benefits Research Institute and the Society for Human Resource Management. While most expected to pass along those costs, only 30 percent said they were likely to pass any cost decreases that might materialize from health care reform.

RETIREMENT TIME

As the economy slowly recovers, more workers are rethinking the possibility of retirement, according to a CareerBuilder survey. Among polled workers age 60 and older, 65 percent said they are delaying retirement because they can't afford it, down from 72 percent last year. Twenty-eight percent of retirement-age workers plan to retire within the next two years, while 27 percent expect to retire in three to four years. Ten percent don't think they'll ever retire, according to the research.

NONMEDICAL IS OK
A majority of employers say they have no plans to cut spending on nonmedical benefits in the wake of health care reform, according to a study by MetLife. Only 10 percent of employers with fewer than 500 workers and 20 percent of employers with 500 or more employees expect to make cuts to benefits such as disability, life and dental insurance. In fact, 43 percent of those polled expect these types of ancillary benefits to become more important for businesses in years to come.

BETTER TITLE, NO RAISE
About 7 percent of U.S. employees received promotions in 2010, but most received smaller pay increases (or none at all) compared with previous years. The promotion rate in 2010 was down from 8.1 in 2009. The average size of promotion-linked salary increases dropped, with executives seeing the biggest dip over the past several years. In 2010, executives netted an average 9.5 percent raise for promotions, compared with an average raise of 11.4 percent in 2005.

SICK AT WORK
Nearly three-quarters of U.S. workers come into work despite being sick, according to a CareerBuilder survey. Fifty-three percent said they've caught a bug from a co-worker who came into the office sick. Why do so many employees go to work ill? More than half (55 percent) said they feel guilty if they call in sick, the survey found.

ILLEGAL HIRES
The Obama Administration has stepped up its efforts against companies that hire illegal workers. The administration has created an audit office staffed with specialists who will analyze employers' I-9 hiring forms. John Morton, the chief of U.S. Immigration and Customs Enforcement (ICE), said the center would examine all types of employers, including large ones. In the fiscal year that ended Sept. 30, 2010, ICE conducted audits of more than 2,740 employers, nearly twice as many compared to the previous year. The agency fined companies that hired illegal workers a record $7 million in that fiscal year, as well.

COSTS, RULES TOP LIST
A large majority (80 percent) of HR professionals said health care costs and compliance requirements top their list of concerns for 2011, a new poll by Business and Legal Reports finds. The biggest of all individual concerns was the possible new Fair Labor Standards Act record-keeping requirement for exempt employees (47 percent). Investigations by federal agencies ranked second at 45 percent. While most companies were concerned about rising health care costs, only 45 percent had implemented a wellness program designed to control costs, the research found.

Webinars

MANAGING FIDUCIARY RISK UNDER ERISA
Employer Webinar Series
March 8 - 2 p.m. ET
Business owners are in a tough position. On one hand, they must offer competitive benefit packages, including health and retirement plans, to attract and retain high quality employees. By doing so, however, they take on the responsibility -- and risk -- associated with overseeing those plans. Often without realizing it, these business owners assume roles that make them plan "fiduciaries" under ERISA, placing not only their business assets, but also their personal assets, at risk.

This presentation for employers, conducted by Spencer Fane Britt & Browne LLP and sponsored by United Benefit Advisors, will give you a greater understanding of the laws governing ERISA fiduciaries and how to minimize fiduciary liability. This session will serve as excellent fiduciary "training" for individuals who serve as trustees, members of administrative committees and plan administrators.

For more information or to sign up, please contact your local UBA advisor.

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HR Elements is brought to you courtesy of The Clemons Company

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