Employee Benefits Report

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Life Insurance Awareness Month Highlights Importance of Employer-Provided Coverage

September is Life Insurance Awareness Month, making it a good time to promote the value of your life insurance benefits. If your organization doesn't already offer life insurance benefits, we can tailor a program to your needs.

Today, employer-provided life insurance benefits have become more valuable than ever. In 2011, the percentage of adults in the U.S. with group life insurance reached 36 percent, surpassing the percentage of adults with individual coverage (35 percent) for the first time.

Most employers provide employee life coverage through group term policies. Group plans offer these advantages over individual plans:

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This Just In…

The recession has taken a toll on life insurance ownership, but employer plans help fill the gap.

Between 2007 and 2009, the number of in-force life insurance policies in the U.S. dropped more than 20 percent, from 374 million to 291 million, reported the American Council of Life Insurers. The number of new policies purchased remained relatively steady during this time, indicating that many people cashed in or surrendered their policies.

The lack of individual coverage makes employer-provided life insurance an even more important safety net for many Americans. During September, Life Insurance Awareness

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1 **Everyone can get coverage.** Insurers will write group life policies on a "guaranteed issue" basis, which means that all eligible employees can obtain some coverage if they sign up during the initial enrollment period. This allows even those who cannot buy individual coverage because of health problems to obtain coverage. Insurers usually limit benefit amounts available to individuals with health problems to a specified maximum, such as $50,000.

To obtain guaranteed issue coverage, insurers require employer groups to meet certain contribution and participation rules. These rules vary by insurer and state, but generally the smaller the group, the higher the employer contribution and participation rate required. For example, an insurer might require 100 percent enrollment from a group of fewer than 15 eligible employees if the employer pays 100 percent of premiums; if employees must contribute to the plan, it might lower participation rates to 75 percent.

2 **It has tax advantages.** The IRS allows employees to exclude the cost of the first $50,000 of qualified employer-provided group term life insurance coverage from their income. To qualify, the employer must directly or indirectly carry the policy. Even if the employer pays no premiums (as in a voluntary policy), it "carries" the policy if it arranges for employees to pay premiums (as in payroll deduction) and employees subsidize the cost of each others' coverage. The policy must cover a group of at least 10 full-time employees during the year. It must provide a general death benefit that is not included in income, and it must provide an amount of insurance to each employee based on a formula that prevents individual selection. This formula must use factors such as the employee's age, years of service, pay, or position.

Employees can also exclude the cost of employer-provided group-term life insurance on the life of a spouse or dependent if coverage does not exceed $2,000. This coverage is excluded as a de minimis fringe benefit.

An employer can deduct the cost of group term life premiums as a business expense, as long as it is not the direct or indirect beneficiary of the policy.

3 **It can be a better safety net for lower-paid employees.** The employer deducts employee contributions, if any, automatically from employees' paychecks. Employees will be less tempted to stop paying their share of premiums if cash gets tight.

Month, help your employees appreciate the value of their life benefits by sharing the following facts:

- **In 2011, 41 percent of U.S. adults, or 95 million, had no life insurance coverage, an all-time low.**
- **Many individuals rely solely on coverage provided by their employer. The percentage of adults with group life insurance has surpassed adults owning individual life insurance, 36 percent versus 35 percent, reported LIMRA.**
- **In 2010, group insurance represented 38 percent of all life insurance policies in force, providing $7.1 trillion in coverage.**
- **Nonparticipating, or 100 percent employer-paid policies, accounted for 96 percent of all group life policies.**

Limits and Features

Employers can tailor a group term life policy to their needs and budget. Most employers offer plans that provide benefits as a multiple of earnings, subject to policy maximums. However, employers can tailor their plan using any one of these benefit formulas:

- Fixed-multiple-of-earnings benefit plans. These plans link the benefit amount to employee earnings, which allows protection to increase automatically as the employee's income rises.
- Variable-multiple-of-earnings benefit plans. Benefit calculations under these plans use multiples based on employee earnings. For example, employees earning up to $50,000 per year might receive a benefit equal to their annual earnings, whereas employees earning more than $50,000 per year might receive twice their annual earnings.
- Flat-dollar-amount benefit plans. These plans provide a fixed ben-

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efit amount, such as $10,000 or $25,000.

- Variable-dollar-amount benefit plans. These plans provide a benefit amount that varies with an employee's earnings and length of service.

Group term life policies offer many options, which may vary by insurer or by state. Some valuable options to consider include:

- Conversion option, which allows employees to convert group term life coverage to an individual term policy without undergoing a medical exam when either their employment or the benefit plan terminates. To take advantage of this option, insureds have to apply and make a premium payment within a period of time specified in the policy. (Some states require policies to be convertible.)
- Waiver of premium option, which waives premium payments for an employee who becomes totally disabled, usually up to retirement age.
- Living benefit option, which allows employees with a terminal illness to receive a portion of their death benefit in advance, to help cover medical costs.

Although group term life cannot take the place of individual policies, it provides a valuable safety net. You can add to the value by offering additional coverage on a voluntary (employee-paid) basis. For more information on setting up a life insurance benefit for your employees, please call us.

How to Get Sued, in 10 Easy Steps

Owners of small businesses may unintentionally violate employment laws just by trying to be flexible or nice. The Small Business Administration (SBA) shares ten of the most common mistakes and suggestions on how to avoid them.

The SBA based its list of ten common mistakes on a study by the California Chamber of Commerce on the top mistakes that can lead to employee lawsuits. You can read the Chamber's report at www.calchamber.com/hr-california/white-papers/Documents/top-10-lawsuit-risks.pdf.

1 Classify all employees as exempt, whether exempt or not.

An exempt employee is typically someone who is paid a specified amount of money, regardless of the number of hours worked in a week. Under both state and federal law, these positions may be exempt from overtime requirements, as well as meal and rest breaks. Other positions may only be exempt from overtime.

Employees who don't qualify for one of the exemptions are considered nonexempt and subject to overtime and meal breaks.

Problems arise when employers assume it's easier to pay everyone a salary (or treat them as exempt), rather than dealing with meal and rest breaks, overtime, and time sheets. Many employers are sued for failure to provide meal and rest periods for nonexempt employees improperly classified as exempt.

Read more about federal rules on overtime and meal and rest breaks at the U.S. Department of Labor's website (www.dol.gov), and refer to the state department of labor for state-specific laws.

2 Give flexible breaks.

While federal law doesn't require employees to be given lunch or coffee breaks, certain states require that non-

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exempt employees get 30-minute lunch breaks, plus breaks for hours worked during the day. Laws even stipulate when the break must be given. In California, a meal break must be provided no later than the end of the employee's fifth hour of work. So giving employees the option of skipping lunch to get out of work early is a law-breaker. Again, refer to your state department of labor for more information.

3 Classify employees as independent contractors.

This is an area of the law ripe for litigation, which can also land you in trouble with the tax man. Your worker may be happy to be considered an independent contractor until money and benefits such as paid leave, workers' compensation and disability become issues. For more insight into this thorny topic, as well as the role the IRS plays and why you need to be aware, see www.irs.gov/pub/irs-pdf/p1779.pdf.

4 Don't train managers and supervisors on avoiding harassment and discrimination.

States vary on whether they require harassment and discrimination training. California, Maine and Connecticut mandate it; other states simply advise it. Training first-line supervisors is your best defense against a harassment or discrimination complaint. See www.globalcompliance.com/pdf/state-requirements-for-harassment-training.pdf for a list of training requirements by state.

5 Let employees decide which hours and how many they want to work each day.

State laws restrict the number of hours an employee can work without payment of overtime. If you have a flex-time policy that lets employees work longer days but fewer of them, you'll need to follow the rules to ensure you don't incur overtime or back-pay along with penalties. Check what laws apply in your state regarding pay and scheduling.

6 Terminate employees for taking a leave of absence.

The law protects employees from being fired for taking family or medical leave, military leave or serving on jury duty. The federal Family and Medical Leave Act applies to employers with 50 or more employees in 20 or more workweeks in the current or preceding calendar year. State leave laws may have different requirements; contact the state department of labor for information.

7 Withhold a final paycheck from an employee who has not returned company property.

Employers are not required by federal law to immediately give former employees their final paycheck. Some states, however, may require immediate payment, regardless of whether laptops, company phones, etc. have been returned — basically as soon as the words "you're fired" are uttered.

8 Give employees loans and deduct repayments from their paychecks.

You may think you're being a generous boss, but most states don't permit employers to deduct anything other than pay and benefits from employee paychecks. Instead, have the employee sign a promissory note with the oversight of a lawyer and arrange a regular schedule of repayments.

9 Require employees to sign non-compete agreements.

Many employers ask their staff to sign non-compete agreements to protect company information and customer lists, and keep employees from working for the competition. However, enforceability of non-compete clauses vary widely by state and some, including California, prohibit them completely (with some exceptions). Consult your lawyer on these agreements and other options for protecting your business information.

10 Have a "use it or lose it" vacation policy, but fail to pay for unused vacation time on termination.

Some states, including California, prohibit "use it or lose it" vacation policies by law. In these states, vacation time is considered a form of compensation, and must be paid out when the employee leaves.

Of course, we know you don't want to be sued. We can help you review your human resource and benefit procedures to help ensure they comply with federal and state laws. And because mistakes happen and angry employees exist, we can also provide employment practices liability insurance and employee benefits liability insurance. For more information, please contact us.

How to Boost Retirement Plan Participation

Most people realize the importance of saving for retirement, but fail to do so, or fail to save enough. According to the most recent data available from the Bureau of Labor Statistics, 65 percent of all workers in private industry have access to an employer retirement plan, but only 75 percent of those with access participated. Some simple, practical actions can help you encourage employee participation in retirement plans and minimize nondiscrimination problems.

What practical steps can employers take to boost 401(k) plan participation and contribution rates?

1 **Consider your group's demographics when designing a plan:** Data from the U.S. Bureau of Labor Statistics (BLS) show take-up rates strongly correlate with the employee's position. Management, professional and other higher-paid employees are more likely to participate in their employer's plan than service and lower-paid employees. Unfortunately, lower-income employees are also the ones least likely to have other retirement savings.

The BLS also found that, among workers in the lowest income group, employer matches have little or no effect on participation, while automatic enrollment has dramatic effects. But among workers in the middle income group, employer matches have substantial effects that may be larger than the effects of automatic enrollment. ("Encouraging Participation in 401(k) Plans: Reconsidering the Employer Match, 2008")

2 **Set goals.** What is your current participation rate? What percentage of participating employees qualify for the employer match? Use figures from other employers in your area and in your industry as benchmarks and set a realistic goal.

3 **See open enrollment meetings as a sales opportunity.** Even if your company auto-enrolls new employees, open enrollment periods provide a valuable opportunity to help employees realize that the 401(k) is part of their compensation package and an important component of their personal financial plan. Keep discussions brief and focused on the benefits of participating and of qualifying for the employer match, if any. Employees who want more detailed information on the plan can schedule additional meetings or refer to online or print resources.

4 **Make sure lower-income employees know about the Savers Credit.** David Wray, president of the Plan Sponsor Council of America, says, "We know there is a correlation between people's financial situation and their ability to save... Companies have not been communicating the Savers Credit. If you are not telling workers about this, you are not delivering the maximum benefit to your participants."

Formally known as the Retirement Savings Contributions Credit, the Savers Credit is available to individuals filing as single with income up to $28,750, heads of household with income up to $43,125 and married couples filing jointly with incomes up to $57,500. Eligible individuals may be able to take a credit of up to $1,000 when filing singly or up to $2,000 if filing jointly when they contribute to a qualified retirement plan. They may take the Savers Credit in addition to other tax benefits. To be eligible for the credit, they must be at least 18 years of age, cannot have been a full-time student during the calendar year and cannot be claimed as a dependent on another person's 2011 tax return.

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5 Consider providing ongoing financial planning education. Financial worries have become one of the leading causes of stress among employees in the last few years, while surveys have shown that employees would welcome more financial education from their employers. Offering financial planning education, either through company-sponsored programs or providing employees access to professional financial planners, can help employees feel more confident of their personal financial situation.

For more information on 401(k) plans and other financial services, please contact us.

Study: CDHPs Could Save $57.1 Billion Annually

A study appearing in the journal *Health Affairs* concluded consumer-directed health plans (CDHPs) — high-deductible, catastrophic coverage combined with Health Savings Accounts (HSAs) — could achieve $57.1 billion savings annually if half the non-elderly U.S. population had them. That's because they operate as true insurance plans, covering medical costs for unexpected, catastrophic events, with people paying out of their own pocket for routine care and prescriptions. The study predicts the potential savings of these plans, together with additional incentives in the Patient Protection and Affordable Care Act, will encourage their growth.

Widespread adoption of CDHPs would return the nation to something akin to the "major medical" model of health insurance that existed after World War II, until pre-paid plans such as health maintenance organizations (HMOs) became prevalent in the 1970s and 1980s. Their growth created an expectation of no or minimal out-of-pocket costs for routine care and preventative screenings, leading the study's authors to caution that individuals in CDHPs might forgo these services, potentially leading to higher healthcare costs over the long term.

The authors also suggest that wider adoption of CDHPs could disrupt the traditional health insurance and HMO markets and promote adverse selection in these product lines, since healthier people may opt for CDHPs, since their premiums tend to be lower.

A major challenge facing health insurers and plans is setting premiums for consumer-directed plans low enough to jibe with consumer expectations of lower, more affordable premiums in exchange for taking on first-dollar exposure up to a high deductible limit. Older but generally healthy people in the individual market have experienced sticker shock at rates for high-deductible plans, deterring them from buying the coverage, even though the premium rate reflects the actuarial risk of a catastrophic medical event. ***Reprinted with permission from the blog Health Insurance Crisis, http://healthinsurancecrisis.net.***

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