Employee Benefits Report

HEALEY & ASSOCIATES
progressive ingenuity. financial security.

10 Free Street, PO Box 599
Portland, Maine, 04112-0599
T: 207.775.6177 | F: 207.775.5688

232 Center St. Suite D, PO Box 3160
Auburn, Maine, 04212-3160
T: 207.784.1535 | F: 207.777.5208

www.healeyassociates.com

Affordable Care Act/Health Benefits April 2014 Volume 12 • Number 4

Clarifications and Tweaks Continue to Change ACA Implementation

Early 2014 has brought some clarifications and changes to the Affordable Care Act and its implementation. Read on for information about just a few of the changes employers should be aware of.

1 You can keep your coverage...again. Last November, the Obama administration responded to pressure from employers and consumers and allowed people to keep existing plans that did not meet the minimum requirements of the Affordable Care Act. In March, the Obama administration issued another delay, which will apply to policies issued until October 1, 2015. Administration officials said the extension will give consumers more time to find the coverage that works best for them and their families.

The delay applies to individual and small group plans, those with fewer than

continued on next page

This Just In…

Some employers require tattoos to be covered while at work. Rapid Realty, a Brooklyn, New York, apartment rental agency, has taken the opposite tack. If an agent gets a tattoo of the company logo, the company begins paying that agent its highest commission split, usually reserved for top producers. The company figures that if employees are dedicated enough to brand themselves with the company's logo, they deserve a reward.

If your workplace bans visible tattoos and certain piercings, remember that tattoos and piercings can be part of religious or spiritual practices. Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of

continued on next page

50 employees. In 2016, it will also apply to employers with 50 to 99 employees, which will be redefined as small businesses in 2016 and may buy health coverage on the SHOP small business health exchanges. However, states must agree to let non-compliant policies continue; 28 states are allowing pre-2014 health plans to continue, reported *Healthcare Payer News*.

2 You will get another year to "play or pay" if you have 50 to 99 full-time employees. While the employer shared responsibility provisions will generally apply starting in 2015, they will not apply until 2016 to these employers if they provide an appropriate certification.

3 Large employers that must play or pay in 2015 will have to provide "affordable coverage" to fewer employees than originally scheduled: at least 70 percent of full-time employees, rather than 95 percent. The 95 percent baseline will begin in 2016.

4 You do not have to include certain categories of workers in your count of full-time employees. These include:

- ❑ Volunteers for a government or tax-exempt entity.
- ❑ Seasonal employees whose customary annual employment is six months or less.
- ❑ Students in federal or state-sponsored work-study programs.

On the other hand, employers cannot treat teachers and other educational employees as part-time for the year simply because their school is closed or operating on a limited schedule during the summer.

5 You'll get another year to provide dependent coverage, as long as you prove you're trying. The IRS extended "transition relief" for the 2015 plan year to employers whose plans (1) do not offer dependent coverage, (2) do not offer minimum essential coverage to dependents, or (3) cover some, but not all, dependents. The Affordable Care Act does not include spouses in the definition of dependents; final implementing rules clarified that stepchildren and foster children are also not considered dependents.

6 Your penalties could be lower. Large employers (100+ employees) must provide qualifying health coverage to all full-time employees or face a possible penalty starting in 2015. Proposed regulations set the penalties at $2,000 times the number of full-time employees lacking qualifying affordable coverage, minus the first 30. Penalties apply if at least one full-time employee buys coverage on the exchange and qualifies for a subsidy.

For 2015 only, employers will get another 50 "freebies" before the penalty applies. The penalty will equal $2,000 x the number of full-time employees lacking health coverage, minus the first 80.

7 You will get another month of open enrollment for 2015. The 2015 open enrollment season will start as scheduled on November 15, 2014. Instead of ending on January 15, 2015, it will extend through February 15, 2015.

8 You will pay a Transitional Reinsurance Fee of $44 per enrollee (every covered employee and dependent) in 2015 if you have a self-funded plan. The fees equal $63 per enrollee this year, and phase out after 2016. The fees help fund coverage for high-risk people in the individual market and phase out after 2016. The Affordable Care Act included these fees to partially offset insurers' risk of covering high-cost individuals, many of whom will presumably get coverage for the first time in the individual market.

For more information on complying with the Affordable Care Act or how it will affect your benefit plans, please contact us.

religion. It requires an employer to make an exception to dress and grooming requirements or preferences once it receives notice that a religious accommodation is needed, unless it would pose an undue hardship. Requiring an employee's religious garb, marking or article of faith to be covered is not a reasonable accommodation if that would violate the employee's religious beliefs.

The U.S. Equal Employment Opportunity Commission recently issued a fact sheet on religious garb and grooming in the workplace; you can find it at www.eeoc.gov/eeoc/publications/qa_religious_garb_grooming.cfm.

Vision Plans: Inexpensive and Effective

According to the U.S. Department of Labor's National Compensation Survey, only 25 percent of workers have access to employer-provided vision care benefits. Employers that fail to offer vision benefits due to cost could be making a mistake, however, since vision benefits have big payoffs in terms of improved health and productivity.

Companies that offer vision care are reaping a number of benefits, starting with productivity. Vision disorders can result in a marked decrease in productivity, costing businesses an estimated $8 billion annually, according to a report released by the Vision Council of America (VCA).

The report also found that an estimated 11 million Americans have uncorrected vision problems, ranging from refractive errors (near- or far-sightedness) to sight-threatening diseases such as glaucoma or age-related macular degeneration. Nearly 90 percent of those who use a computer at least three hours a day suffer vision problems associated with computer related eye strain. Many types of employees, including engineers, construction workers, stockbrokers, software developers, accountants and administrative assistants, have a high risk of developing vision problems that affect their work performance.

Another study cited in the *Journal of the American Optometric Association* found that in the presence of very little visual degradation, such as glare on a monitor, employees show an efficiency decline of four percent to 19 percent in accomplishing standard tasks.

Types of Coverage

Vision coverage typically comes in the form of either a vision insurance plan or a discount vision plan. Typically, a vision insurance plan provides enrollees eye care services in exchange for an annual premium or membership fee, a yearly deductible for each enrolled member, and a co-pay each time a member accesses a service. A discount vision plan provides eye care at discounted rates after the employer or employee pays an annual membership fee.

Both kinds of vision benefits can be designed to meet the requirements of a wide range of businesses, including small- and medium-sized businesses, nonprofits, school districts and unions.

Vision insurance generally covers the following basic services:

- Annual eye examinations, including dilation
- Eyeglass frames

- Eyeglass lenses
- Contact lenses
- LASIK and PRK vision correction at discounted rates

Vision insurance costs vary for employers, depending on the size of the company and how the program is designed. Monthly premiums typically range from $15-$25, depending on the type of plan and benefits provided. As with nearly all medical plans, covered individuals will have a small annual deductible and copayment whenever they use covered services.

Vision discount plans typically cost less—as little as $5 or $6 per person per month. They usually do not have deductibles or co-

continued on next page

payments, but offer a flat discount off the cost of vision care services. Since they are not insurance and providers do not have contracts with discount plans, a vision care provider could refuse to accept your discount plan at any time.

Getting Started

- Start by asking your medical benefits provider if it offers vision care coverage as an option in any of its plans. If not, we can find a plan directly through a specialty vision insurance carrier.
- Ask your employees if they'd be interested in vision insurance, and gauge their willingness to contribute to the cost. Talk about their recent and estimated future vision care needs, their costs and the amount they would hope to save with a vision benefits plan.
- Analyze your organization's needs and compare available vision care benefit options. Look for convenient access to optometrists and ophthalmologists, likely savings for your employees, overall user friendliness of the plan and cost to your employees and/or your company.
- Solicit preliminary proposals and select the plan that best meets your criteria. Decide what portion the employer will pay and what portion employees will pay.
- Provide employees with a summary plan description and information on costs. Don't forget to sell the benefits of the plan to ensure maximum participation.

Vision Plan Factoids

- **Employers can gain up to $7 for every $1 invested in vision coverage.**
- **More than eight out of 10 consumers say they would be interested in a vision plan**
- **Half of all people with diabetes do not know they have it. Diabetes mellitus is the leading cause of legal blindness in the U.S. today.**
- **By age 65, one in three seniors will have a vision-impairing eye disease.**
- **Premium vision benefits generally cost less than $100 per employee per year, versus about $6,000 for single-only medical coverage.**

Source: National Association of Vision Care Plans

Consider Employee-Paid Voluntary Vision Plans

Employers can also offer vision benefits on a voluntary, employee-paid basis. Employees get the advantages of group rates and convenient payroll deduction payment, plus the financial security of knowing their vision needs will be covered. Employers simply provide payroll deduction services; we can handle plan selection, enrollment and administration.

For more information on vision benefits, please contact us.

What the EBSA Will Ask for in a 401(k) Plan Audit: Documentation You Need

by Keith R. McMurdy, partner, Fox Rothschild LLP

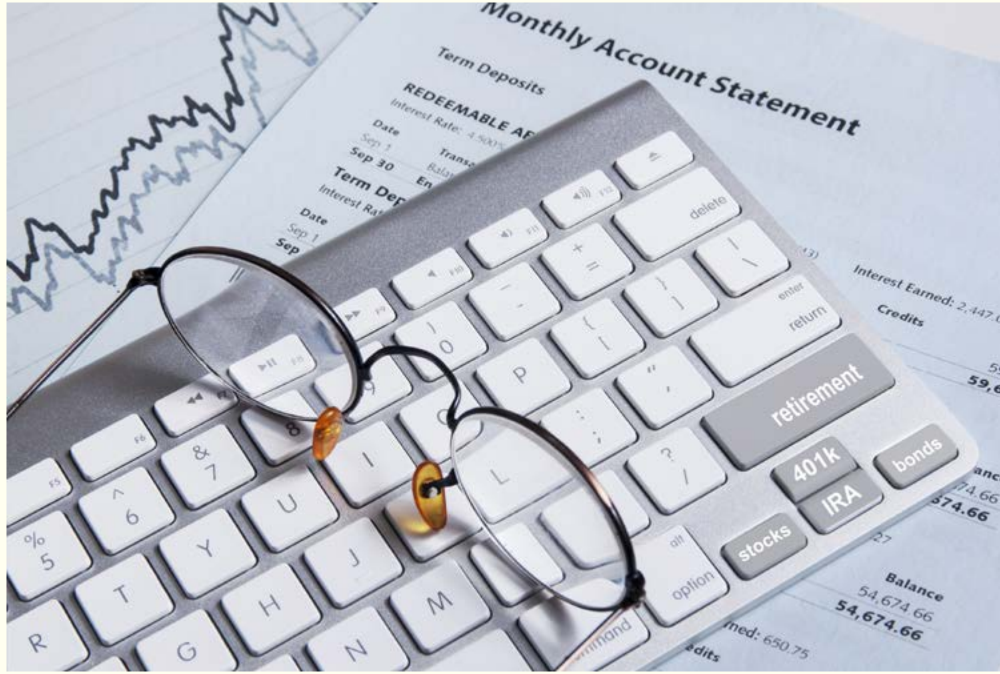
When clients get an audit request letter from the EBSA, they usually call me surprised at the amount of information being requested. It is not just the shock of being audited that impacts them, but the amount of information they need to provide. Sometimes, the requested documentation may not be available, which creates its own set of issues. But for planning purposes, I thought it would be beneficial to lay out the list from the most recent audit request I reviewed.

Plan sponsors of defined contribution plans will likely be required to produce the following in response to an audit:

1. Plan documents and all amendments, including trust documents and summary plan descriptions (which reminds us these should exist and amendments should be formally written and adopted)

continued on next page

2. Summary annual reports for the period under review
3. Fiduciary insurance and bond policies
4. Internal income and disbursement statements
5. IRS determination letters
6. Meeting minutes for committee or subcommittee meetings (which suggests there should be meetings regarding plan administration)
7. Plan financial records, including account statements and ledgers
8. Service provider contracts
9. A sample participant benefit statement
10. RFPs disseminated showing the process for hiring plan professionals
11. Form 5500s
12. All documents related to service provider fees, including fee schedules and compensation paid to professionals by the plan
13. All documents related to costs charged to the plan
14. Documents identifying fiduciaries, including their dates of service
15. Any ERISA compliance policies or procedures adopted by the plan or sponsor
16. All documents related to plan investment performance (which includes an investment policy statement)
17. All documents related to administrative expenses (direct or indirect) related to the plan
18. Documents showing the names and service times of board members and officers of the plan sponsor



19. Documents showing timeliness of employer contributions and repayment of participant loans
20. Documentation showing the procedure for handling participant loans, if applicable (because loan administration and repayment of loans is a frequent issue in audits)

As you can see from this list, there are certain documents that relate to the plan (like plan documents) and certain information related to the sponsor. Plus there is a lot of financial data that has to be provided. The time to see if you have this required information is before you receive the audit request. So consider this list as a test. If there is a request here that you could not satisfy if you were undergoing an audit, now is the time to locate that information. And if it is documentation that needs to be created, don't hesitate to ask your attorney for assistance. ■

Reprinted with permission of the author. For information, please contact Keith R. McMurdy at kmcmurdy@foxrothschild.com

Good Benefits = Good Mental Health + Good Business

April 2 is National Employee Benefits Day, a good time to recognize the value of quality employee benefits. This year, the International Federation of Employee Benefit Plans is encouraging plan sponsors to use the annual event to focus on the coming retirement crisis and to "motivate participants to actively engage in their financial wellness."

The Personal Finance Employee Education Foundation (PFEEF) studied the link between financial wellness, emotional wellness and productivity in 2010. Employees with more financial distress reported more emotional health risk, defined as experiencing negative feelings to the point they affected normal functioning, and increased absenteeism from the workplace.

In 2006, the PFEEF estimated that employers could save approximately $450 in productivity and $300 in healthcare costs for every employee who improved his or her financial well-being. Unfortunately, the PFEEF found financial wellness decreased significantly between 2004 and 2012, with 48 percent of respondents reporting good to very high financial well-being in 2004, and only 24 percent saying the same in 2012.

What can employers do?

1. Offer your employees a retirement plan. In private industry, 64 percent of employees had access to retirement benefits in 2013. Employment status made a big difference in access: 74 percent of full-time workers had access, versus only 37 percent of part-time workers. Retirement benefits were available to 49 percent of workers in small establishments and 82 percent of workers in medium and large establishments.
2. Encourage participation. If you already offer a retirement plan, encourage employees to participate. Only 49 percent of private industry employees actually participated in a retirement plan. Automatic enrollment is the easiest way to boost participation.
3. Offer financial education. Don't limit education to retirement savings; other financial topics, such as budgeting and smart use of credit, can help employees better cope with immediate financial concerns.
4. Consider offering other benefits that help employees protect their finances, including voluntary life, disability, long-term care, legal and identity theft insurance. Worksite benefits can also include group rates on home and auto insurance and group rates on mortgages and personal loans.

For more information on using benefits to increase employee health and productivity, please contact us.

Employee Benefits Report