

BENEFIT

Plan Developments

A monthly report covering plan design and legislative changes

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Trade Group Warns Of Potential LTC Crisis

Against the backdrop of expensive health care costs, **long-term care insurance (LTCI)** is growing in popularity with the young and old alike, according to a report issued by The American Council of Life Insurers (ACLI, 2003).

“Passing the Trust to Private Long-Term Care Insurance” reports that consumers are buying long-term care at younger ages, and that nearly half of all Americans age 45 and older have discussed their possible long-term care needs with their adult children.

The ACLI report notes that it costs almost \$16,000 annually for daily visits by a home health care aide, while nursing home care is averaging \$55,000 per year. Within the next 30 years, the report projects that these expenses are expected to quadruple to \$68,000 and \$241,000 respectively.

While the need for long-term care planning is clear, the ACLI report says, a vast major-

ity of adult Americans continue to go without coverage, thus setting the stage for the depletion of personal savings and the exhaustion of government entitlement programs.

ACLI Senior Director Lynn Boyd said Rep. Nancy Johnson, R-Connecticut, and Earl Pomeroy, D-North Dakota, are expected to introduce legislation in the House to encourage Americans to purchase long-term care insurance. Meanwhile, Sen. Charles Grassley, R-Iowa, and Bob Graham, D-Florida, are expected to take a similar step within the Senate.

Meanwhile, with enactment of the **Health Insurance Portability and Accountability Act (HIPAA)** in 1996, Congress gave long-term care insurance its seal of approval. Long-term care premiums now qualify for federal tax deductions along with other

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health expenses. At least 21 states also encourage the purchase of private insurance by offering tax deductions or credits for insurance premiums.

The ACLI is a trade association with 383 members who offer life insurance, annuities, pensions, long-term care insurance, disability income insurance, and other retirement and financial protection products.

Good Benefits Don't Mix With Bad Communications

The need for effective communication of pharmacy and other benefits will continue to increase due to inevitable changes in cost structures and the regulatory environment.

That's the studied assessment of Dave Halter, vice president of member strategy for Medco Health Solutions. "Several years ago, whether you did a good job or a bad job of communication didn't matter much because pharmacy benefits didn't change often. And the magnitude of change was small, so there was little or no confusion around the benefit."

As prescription costs spiral upward, benefits professionals need to focus on overall costs and begin to examine such areas as restrictions and increased cost sharing. In the absence of effective communications, the strategist noted, employees would often resort to the rallying cry of "corporate greed"—whether it was due to cost issues involving prescription drugs, or other benefits.

Effective communications does not simply encompass the drafting of a letter, Halter says. "It's about

multiple communication approaches like direct mail, voice response (messages), e-mails, recorded messages, and everything in between"

The strategist recommends that everyone think about their communications strategy early and often, and especially if plan design changes are involved. And use the "grandmother test." That means all your benefits communications should be created so that anyone's grandmother could both read and understand it.

One final suggestion: Take care in assuming you know your employee group so well that your perspective is off with respect to truly having an effective communications program.

Insurance-Related Injuries Concern Business Owners

A top concern for many small- and mid-sized businesses is worker injury, according to a survey conducted by Market Decision Corp., this year on behalf of The Hartford Financial Services Group.

The survey found that 75% of businesses with 3 to 500 employees are either worried or very worried about workplace accidents that could impact insurance plans.

Those pervasive concerns about employee injuries are not surprising, the survey states, considering that 54% of the respondents said they had had at least one workplace injury within the past three years. Of those reporting accidents, 91% said they were worried about future accidents.

Nearly the same number of businesses (73%) that are worried about workplace injuries said they offer temporary alternative assignments to employees injured on the

job who cannot perform their normal duties. However, only one-third of those businesses said they had a formal return-to-work policy.

“Transitional employment is an important part of managing worker injuries and claims,” said Pamela Rippens, senior vice president and director of field operations for Specialty Risk Services at The Hartford. “When you identify a choice of medically appropriate jobs and get injured employees back to the workplace in meaningful work, you help them recover much faster. It all comes down to home recovery versus recovery on the job—and the job services a worker’s long-term interests better.”

Employees Using Tax-Advantaged Benefits Programs

While both employers and employees are sharing increases in health care costs in 2003, most employees are keeping their existing plans, but are taking cost-containing steps, according to an analysis by Fidelity Investments of 100 medical plans used by 505,000 active employees and their dependents.

The analysis revealed that increased numbers of employees are using **flexible spending accounts (FSAs)**, switching to **Preferred Provider Organizations (PPOs)**, and are enrolling in benefit options via the Internet.

Enrollment in FSAs increased by 15% compared with 2002, with annual contributions into the accounts increasing by 7% to \$1,031. For employees who have participated in an FSA for one year or more, the average contribution increased to \$1,360.

For 2003, the analysis showed that PPOs continued to be the plan of choice, with 50% employee participation. The popularity of PPOs was linked to the broader choice of providers.

Meanwhile, the number of participants turning to the Internet during the fall of 2002 annual benefits enrollment period, increased to 71% from 62% the previous year. Use of the Internet for enrollments has nearly tripled since four years ago, according to the Fidelity analysis.

The average 2003 premium is \$6,354, of which \$1,398 (22%) is paid by the employee. Fidelity said the employee contribution is up slightly from 21.4% in 2002.

“Our analysis shows that many employers made significant changes to their health care benefits packages for 2003, yet only 8% of employees selected a new medical provider for the year,” said Surinder Singh, a Fidelity executive vice president. “What’s encouraging is that we have seen more employees participate in tax-advantaged flexible spending accounts to help them offset increased out-of-pocket medical expenses.”

Dated Handbook Opens The Door To FMLA Action

Because a **Family and Medical Leave Act (FMLA)** policy was not properly described in an employee handbook, a U.S. District Court in Illinois has ruled that the employee may pursue allegations that her rights were violated.

In the case of Jacquelyn Dodaro v. Village of Glendale Heights, Judge William Hart ruled that because the town did not properly

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communicate its “rolling method” for counting eligible days, the more employee-friendly “calendar method” was applicable in the case. This meant that the plaintiff would have been eligible for additional time off as a town employee. A “rolling method” counts days off for the previous 12 months, while the “calendar method” starts anew with each new year.

The issue of FMLA leave—and Dodaro’s subsequent dismissal from her position—centered around the “substantial number” of absences she had during her tenure as a part-time office technician in the defendant’s public relations department. Although the plaintiff was provided with a copy of the defendant’s employee manual when she was hired, the publication simply stated that employees were entitled to leave of absence without pay in accordance with the terms of FMLA.

A town policy stating FMLA leave of absences would be counted using a “rolling method” was not part of the employee manual when the plaintiff was hired. When the policy outlining the “rolling method” was first issued, a copy was provided to each employee and a copy was posted on an employee bulletin board for a three- to six-month period. Additionally, a copy of the policy was provided to the plaintiff when she applied for FMLA. However, more than two years after the “rolling” policy had been issued, it had not been incorporated into the defendant’s employee manual.

The judge noted that FMLA notice regulations state that if an employer provides any written guidance to employees regarding their leave rights (e.g., employee handbook), *all* information about FMLA rights must be included.

Legislative Actions

MHPA Amendment

The **Employee Benefits Security Administration (EBSA)** has proposed a technical amendment for the **Mental Health Parity Act (MHPA)** which would align the effective dates of interim final rules with the Act’s latest sunset date.

The proposed amendment would extend the interim final rules to December 31, 2003 and mirror the latest sunset date of the Act. Originally, the Act contained a sunset clause stating its provisions would not apply to benefits furnished on or after September 30, 2001.

MHPA mandates that annual or lifetime dollar limits for mental health benefits be no lower than those for medical and surgical benefits offered by group health plans.

Comp Time Bill

The **Family Time Flexibility Act (HR 1119)**, which would allow employees to trade overtime hours worked for compensation time off, has received approval from the House’s Education & Workforce Committee.

Introduced by Rep. Judy Biggert, R-Illinois, the bill has been sent to the full House for consideration. It has 70 co-sponsors.

If approved, the bill would amend the **Fair Labor Standards Act** enacted in 1938 and—in agreement with their employers—allow employees to choose paid time off as compensation for working overtime hours. The legislation includes protections to prevent employers from coercing employees into accruing or using compensation time rather than paid overtime.

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