

# Employee Benefits Report



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EMPLOYEE BENEFITS  
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## Setting the Record Straight: Helping Employees Understand the True Cost of Benefits



**T**he answer is, not really. A worker sentiment study by Fidelity Investments' Consulting Services found most workers surveyed underestimate employers' cost of providing health insurance to employees. The survey found 53 percent believe their employers pay less than \$5,000 annually per person to provide health insurance, when, in fact, health plans typically cost employers \$5,000 to

**You may be painfully aware of the cost of providing health and retirement benefits for your company's employees, but are they?**

\$15,000 per employee on an annual basis.

The study also found that while 72 percent of respondents believe the benefits they receive are better than, or as good as, what most other companies offer, most feel the value of benefits has dropped, with 61 percent of workers saying they pay more for benefits but get less or the same as they did in 2007.

At the same time, benefits remain absolutely critical to today's employees. One out of four surveyed said they are working more to receive benefits than to receive income. In addition, eight out of 10 of those surveyed would opt to have healthcare benefits provided through their job rather than receive a cash payment to manage their own healthcare needs.

And when asked what their biggest concern would be if they were to lose their job today, 25 percent ranked losing health insurance as number one.

So what can you do to help employees understand the dollar value of their benefits?

- 1 Know your employees** — Before you launch an education campaign, learn what your employees know already about healthcare services and costs. This can be accomplished through an employee survey or focus group.
- 2 Deliver information appropriately.** Establish what types of media, such as online support tools, customer service assistance or printed materials, your employees

## This Just In

**E**mployers can ask employees to use accrued vacation during shutdown periods. In the current economic climate, employers are struggling to find ways to control labor costs without resorting to layoffs. One option is to temporarily shut down a facility when little or no work is in the pipeline. This usually does not present a problem with non-exempt employees but it's more complicated with salaried, exempt employees.

A recent Department of Labor (DOL) opinion letter, however, provides some relief. It states that an employer may require exempt employees to use their accrued vacation during a shutdown of less than one workweek, without jeopardizing the employee's exempt status or otherwise violating the Fair Labor Standards Act (FLSA).

Employers contemplating mandatory use of accrued vacation time during a plant shutdown should be mindful of state laws or collective bargaining agreements that might prohibit such a mandate or otherwise govern a shutdown.



# HIPAA Rules Change Once Again

The recently passed federal stimulus package includes some fairly dramatic changes to HIPAA's (Health Insurance Portability and Accountability Act) privacy rules. Will they affect your business?

**A**lthough the stimulus package made other changes to HIPAA, arguably the biggest change is the expansion of who HIPAA covers. The law now places the same security requirements on "business associates" (a person or entity who provides certain functions, activities or services for, or to, a covered entity, involving the use and/or disclosure of private health information, also known as PHI) as on covered entities. This includes the administrative, physical and technical safeguards mandated by HIPAA's security rules.

A second major change to the law is the addition of a security breach notification requirement. Now covered entities and business associates must notify affected individuals when protected health information

is exposed by accident or theft. You are required to provide notification by mail or email, depending on the individual's preference. For large security breaches, defined as more than 500 individuals, you must notify both a "prominent media outlet" and the Department of Health and Human Services (HHS). The law mandates HHS to create and run a Web site for public disclosure of breaches.

And get ready for larger penalties. The fine per violation has grown from \$100 per individual with a cap of \$25,000 to \$1,000 per individual with a cap of \$100,000. There can also be a fine of \$10,000 for willful neglect that caps at \$250,000. Topping the list of fines is \$50,000 if problems are not corrected properly, with a cap of \$1.5 million per calendar year.

Currently, individuals have a right to receive an accounting of disclosures of their private health information made by the covered entity over the prior six years, other than disclosures made to carry out treatment, payment or healthcare operations of the covered entity. The Act expands this right by providing that the exception for disclosures made to carry out treatment, payment or healthcare operations does not apply to disclosures made through an electronic health record. In this case, the individual may receive an accounting of *any* electronic disclosures made by a covered entity or a business associate during the previous three years.

The Act now allows an individual to direct a healthcare provider to not share his or her PHI with his or her health plan if the provider involved has been paid out of pocket in full. Previously, the covered entity could determine whether to comply with such a request for restrictions. Currently, the use or disclosure of PHI is limited to — in most cases, but not all — that which is minimally necessary.

The HIPAA Privacy Rule currently allows an individual to request access to his or her PHI. Not surprisingly, the Act also strengthens the prohibition against covered entities and business associates selling any PHI without the specific authorization of the individual.

Finally, the law expands who may bring suits for HIPAA violations. It is now possible for fines to go to individuals and their lawyers. Some argue that this dramatically increases the incentives for lawyers to bring lawsuits. State attorneys general can also bring action against covered entities and business associates on behalf of their residents. This change is significant from the current system, where only individuals could seek action by the HHS.





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find most useful. This information can be garnered by looking closely at the demographics of your workforce. If your workforce is composed mainly of young professionals, Internet tools are likely to be effective. However, if your workers likely lack a computer in the home, printed materials may be best. Don't forget to take advantage of newsletters, bulletin boards, e-mail or paper newsletters, paycheck stuffers and other communication devices.

**3 Educate to influence behavior.** Remember, you're running a public relations campaign of sorts. Your goal is two-fold: getting workers to appreciate benefit costs and to use their benefits more wisely. Experts recommend beginning an education campaign six to nine months prior to open enrollment and two to three months before significant changes. This early education should focus on high-level issues such as healthcare costs, prevention and disease management.

**4 Be transparent and frank when your company changes benefits.** Make employees aware of the rationale for your company's decisions. Take care to ensure that any messages, whether explicit or implied, portray your company's ongoing viability in a manner consistent with other communications to employees, shareholders or the public. When cuts to benefits are forthcoming, alert employees of such decisions as part of a broader discussion of your company's overall financial well-being and let them know the steps being taken may help avoid or mitigate job losses and/or bankruptcy.

Now is a great time for you to step up overall communications with employees, since most are anxious about job security and company viability. If you're providing a broad and valuable menu of benefits, shouldn't everyone know how much it's really worth? ■

## Grim Future Outlook?

**W**ith the recent spate of news reports on benefit reductions at many companies, it's no wonder that almost half of American workers surveyed (48 percent) believe that their employers won't be providing benefits 10 years from now, including health insurance, retirement savings plans and pension plans, according to the Fidelity study.

Thirty percent of workers surveyed think they will be responsible for obtaining their own benefits by 2019; 18 percent think the government will provide benefits; 28 percent think employers will still provide benefits to their workers; and 24 percent are not sure.

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### What it means for you

- ✦ You may need to review and revise your HIPAA privacy policies, as well as administrative materials, record retention policies and training logs to comply with the new provisions.
- ✦ You may need to revise your HIPAA privacy notices to reflect the new provisions.
- ✦ You should review your covered entity and business associate agreements. Most agreements will need to be modified to reflect the new requirements.
- ✦ Business associates must take steps to determine whether they need to adopt HIPAA policies and related materials that reflect their new status as directly subject to HIPAA.
- ✦ Covered entities and business associates should properly train any employees who have contact with PHI from the group health plan on the new standards. ■

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costs while improving patient safety and quality of care.

An EBM approach to care has clear benefits in quality of care, reduction of medical errors and cost savings, according to doctors writing in the peer-reviewed *Annals of Family Medicine* and the *Journal of Managed Care Pharmacy*. An e-prescribing clinical decision support solution, for example, showed a significant impact on the cost and quality of patient care. The participating payer enjoyed ongoing savings of \$1,270 per doctor per month. Those are hard dollar savings that can be passed on to payers and employees.

The NBSG suggests the following principles for promoting evidence-based medicine:

- ✦ Identify a core schedule of benefits for which there is already scientific evidence of effectiveness. Employers can use this schedule to assess their current plans and revise employee cost sharing formulas. The schedule might also form the core of

a benefits plan for sponsors considering more limited coverage and/or by individuals who cannot afford or do not want a comprehensive plan.

- ✦ Define a process for quickly translating evidence-based assessments to coverage and provider payment policies. This may include negotiating with your provider or finding out what evidence-based plans your provider may offer.
- ✦ Promote healthy lifestyles and retiree health.
- ✦ Incorporate EBM and other best practices in plan designs, including disease management and onsite medical clinics.
- ✦ Develop tactical approaches, such as dependent coverage, imaging management and personal health records, that encourage an EBM strategy.

For more information on evidence-based medicine or other healthcare cost-control strategies, please contact us. ■



# How Evidence-Based Medicine Can Help Control Costs

Some experts estimate that one-third of the \$2.5 trillion Americans spend on healthcare in a year is wasted, and that much of the money could be saved if doctors knew which drugs and treatments work better and dropped those that don't work as well or at all.

**A**s if you needed a reminder, the cost of providing healthcare coverage has risen dramatically — double the rate of inflation, at six percent annually over the last three years alone. One reason for the continual climb is the hundreds of billions of dollars wasted each year on medical treatments that don't work. Doctors prescribe expensive new drugs even when older, cheaper ones are more effective. Surgeons pioneer radical new procedures only to find — much later — that they may harm patients more than they help.

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That's the idea behind evidence-based medicine (EBM), the concept of applying evidence gained from the scientific method to certain parts of medical practice. According to the Center for Evidence-Based Medicine, "evidence-based medicine is the conscientious, explicit and judicious use of current best evidence in making decisions about the care of individual patients."

It would seem like EBM should be standard operating procedure, but a recent Rand Corporation report found that clinicians follow evidence-based guidelines in fewer than 55 percent of patient diagnoses.

EBM recognizes that many aspects of medical care depend on individual factors such as quality and value-of-life judgments, which are only partially subject to scientific methods.

The recently passed stimulus bill included \$1.1 billion for EBM. The newly created



Federal Coordinating Council for Comparative Effectiveness Research will coordinate and guide investments in research on the relative strengths and weakness of various medical interventions. Although the council will focus on the needs of populations served by federal health programs, such as Medicare, its research will likely provide information useful to employer group plans.

## Employer perspective

Employers who aggressively manage their health plans have notably lower and more predictable cost trends, according to the National Business Group on Health (NBGH), which provides members with practical solutions to control healthcare

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## Communicating EBM Effectively

**A**sking employees to adopt evidence-based healthcare means much more than asking them to learn new terms and concepts. It means asking them to become more actively involved in health-related decision making. This type of behavior can be both unfamiliar and intimidating to employees. Be ready for these objections when introducing EBM:

- ✱ More care is better care. To employees, the idea that getting less care could actually mean getting the right care is both unfamiliar and counterintuitive.
- ✱ New types of care will be better care. Employees strongly value innovative healthcare—and they tend to assume that new drugs and treatments represent advancement. They believe that when someone is

sick, quality care can mean trying as many things as possible, including new or alternative treatments.

- ✱ Good quality care costs more. Employees tend to believe that people get what they pay for—so it makes sense for quality care to cost more.
- ✱ If it's good for the company, it must be bad for me. Employees have a hard time believing a benefit change can be a win-win situation. It's your job to explain how everyone can benefit from EBM.

Bottom line: EBM is a great strategy for reducing healthcare costs. Just remember it will require a fair amount of communication and education on your part to convince employees. ■