Employee Benefits Report

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How EAPs Help Increase Productivity, Reduce Costs

Now that the Departments of Labor and Treasury have clarified how EAPs can co-exist with employer health plans under the Affordable Care Act, it's a good time to consider adding one of these valuable programs to your benefits package.

An employee assistance program, properly implemented, can provide a significant return on investment (see sidebar) and can help you raise the productivity of your workforce, lower absenteeism rates, reduce accidents and help resolve workplace conflicts and complaints.

An EAP is a voluntary, work-based program that offers free and confidential assessments, short-term counseling, referrals, and follow-up services to employees who have personal and/or work-related problems. EAPs handle a broad and complex body of problems that affect mental

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This Just In…

Rules proposed by the Departments of Labor and Treasury would free employers to offer employee assistance programs (EAPs) without worries about complying with the Affordable Care Act (ACA) and other market health reforms. The proposed rules would make EAPs "excepted benefits" and thus exempt from certain provisions of HIPAA, COBRA and the ACA, effective immediately.

To be considered excepted benefits, EAPs must be free to employees and not provide "significant" medical care or treatment benefits. EAPs cannot act as "gatekeepers" for receiving benefits under a medical plan.

The regulations would also make an employer's self-insured

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and emotional well-being, such as alcohol and other substance abuse, stress, grief, family problems, and psychological disorders.

The National Compensation Survey defines an EAP as a program that provides referral services or counseling concerning any of the following:

- Alcoholism
- Drug abuse
- Marital difficulties
- Financial problems
- Emotional problems
- Legal problems

EAP counselors can also work in a consultative role with managers and supervisors to work through employee and organizational challenges and needs. Many EAPs are active in helping organizations prevent and cope with workplace violence, trauma, and other emergency response situations.

Here are the typical components of a full-service EAP:

- 24-Hour Crisis Telephone Response. Professional EAP counselors provide live, immediate telephone crisis counseling 24 hours/day, seven days a week.
- Confidential Assessment and Counseling Services. Licensed, professional counselors — experienced in providing EAP services — deliver assessment and brief, solution-focused counseling in safe, private, confidential offices.
- Referral Support, Tracking and Follow-up. The EAP should assist with referrals for long-term or specialized care based on assessed client need, recommended treatment, client preferences, financial and other resources.
- Emergency Intervention/Critical Incident Stress Management. The EAP provides onsite assistance in a timely fashion for emergencies, including critical incident stress management (CISM) defusing and debriefing, and other crisis response for management and employees.
- Substance Abuse Expertise. Given its disproportionately significant impact on the workplace, EAP providers should have specific knowledge, training and experience in the assessment and treatment of chemical dependency and other addictions.

Making Choices

With all the choices available in EAP services, here are a few good questions to ask of potential providers:

- How will EAP client records remain completely confidential and protected as required by law?
- Does the EAP provide online access to screening and referral services?
- Will my company receive direct management communication and support from the EAP?
- Will my company receive timely, knowledgeable crisis response?
- Will the EAP be visible and responsive in a crisis, and provide timely, customized onsite critical incident stress management services and crisis response at all workplace locations where needed?
- Will the EAP provide evidence of results?
- Will providers be EA professionals, or are they behavioral health counselors with no EAP credentials?

vision and dental benefits excepted benefits effective immediately, even if they do not require employee contributions. Insured vision and dental benefits, as well as self-insured vision and dental coverage that requires employee contributions, already qualify as excepted benefits.

Effective for plan years starting in 2015, the proposed rules also would treat as excepted benefits certain limited coverage that “wraps around” an individual market policy. The “wraparound” coverage would be available to employees for whom the employer’s primary group health coverage is not affordable and who get coverage through a non-grandfathered individual market policy.

For more information about EAPs, please see the article on page 1.

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- Does the EAP guarantee availability of non-urgent and urgent appointments in a timely and responsive fashion?
- Can my company deal directly with the EAP provider's decision-makers for quick response to all management and consultation needs?
- How will the EAP provider track utilization of EAP services? Do the utilization figures separate employees from dependents? Do the utilization figures separate phone calls from other services, such as consultations, counseling and training?
- Does the EAP utilize a reliable data collection process that delivers valid, measurable client and organization satisfaction ratings?
- Will the EAP provide annual utilization, satisfaction and client-specific return on investment (ROI) reports?

Like other benefit plans, EAPs can vary greatly from one provider to the next. Employers can scale the services they buy to their needs. Start by determining the level of service you want and can afford, then look at the options available that satisfy those levels.

EAPs can offer referral services, or referral services in combination with counseling services. Both the referral services and the counseling services may be supplied by company personnel, by an outside organization under contract, or by a combination of both. An EAP may include a full suite of services or just a few.

Many plans base costs on utilization, while others charge a flat per-employee fee. The exact cost of an EAP varies with your location and the type of services offered; charges of around $25 per employee per month are typical. Surprisingly, the cost of EAPs has remained relatively stable over the past decade, due largely to increased competition and advanced technologies. For more information, please contact us.

Are EAPs Worth the Cost?

Consider the following facts:

- **An estimated 26.2 percent of Americans ages 18 and older — about one in four adults — suffer from a diagnosable mental disorder in a given year. Mental Health America estimates that untreated and mistreated mental illness cost U.S. businesses up to $44 billion per year.**
- **Eleven percent of American workers have a problem with alcohol. In a 2006 study, about 15 percent admitted to using or being impaired by alcohol at work during the preceding year. The U.S. Substance Abuse and Mental Health Services Administration (SAMHSA) estimates employers' savings from investing in alcohol and substance abuse programs can exceed costs by a ratio of 12 to 1.**
- **Twenty-six percent of respondents to a Families and Work Institute survey said they were often or frequently very stressed or burned out by their work. Workers who report high levels of stress have healthcare costs that are nearly 50 percent more than other workers.**

E-Cigarettes in the Office

Electronic cigarettes, or e-cigarettes, are growing in popularity. How should employers handle this?

Tobacco vs. E-Cigarettes

Cigarette smoke contains more than 4,700 chemical compounds, which can affect anyone within breathing distance of the smoker. Many states and municipalities have laws banning or restricting smoking in the workplace to prevent exposure to the chemicals in this second-hand smoke.

E-cigarettes do not produce smoke. Instead of tobacco, they contain liquid nicotine (plus flavorings and other substances), which the device turns into a vapor. Since e-cigarettes contain no tobacco, federal and state tobacco laws do not apply.

Despite their lack of tobacco, e-cigarettes still raise health concerns. A study led by Maciej Goniewicz, a researcher and assistant professor of oncology in Roswell Park Cancer Institute, found that vapors released from e-cigarettes into surrounding air do contain nicotine. "Our data suggest that secondhand exposure to nicotine from e-cigarettes is on average 10 times less than from tobacco smoke. However, more research is needed to evaluate the health consequences of secondhand exposure to nicotine from e-cigarettes,

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especially among vulnerable populations including children, pregnant women and people with cardiovascular conditions," he said.

The study, one of the first on the safety of e-cigarettes, had several limitations. It focused on nicotine and a limited number of other chemicals released from e-cigarettes. Researchers noted that future research "should explore emissions and exposures to other toxins and compounds identified in e-cigarettes such as formaldehyde, acetaldehyde and acrolein." In addition, more research is needed to determine whether vapor from e-cigarettes can deposit onto surfaces to create "third-hand" vapor.

Proponents of e-cigarettes say they are safer than cigarettes and help smokers quit. Although anecdotal evidence suggests e-cigarettes have helped some smokers quit, many health officials aren't so sure. The FDA opposes the products, saying that e-cigarettes "may contain ingredients that are known to be toxic to humans." And because e-cigarettes are not regulated, there is no way to know how much nicotine—an addictive drug—they deliver.

E-Cigarettes and Employers

Public and health policy regarding e-cigarettes is still evolving, pending further research. Some employers that ban smoking allow the use of e-cigarettes in the workplace. Others, fearful of the health effects of e-cigarette use and of secondhand vapors, have banned them. And many will turn a blind eye until a fellow employee complains. What you decide to do should depend on state and local laws and your company's culture.

Some states—Alabama, Idaho, Georgia, Missouri, New Hampshire and Oklahoma—allow smoking only in a designated location. California and Connecticut allow smoking only in specified areas with adequate ventilation. Some states have no restrictions on smoking in the workplace: Alaska, Indiana, Kentucky, Mississippi, North Carolina, South Carolina, Texas, Virginia, West Virginia and Wyoming. If you have operations in these states, you'll want to check with the local health department or chamber of commerce, since some municipalities within these states have placed stronger restrictions on smoking within their boundaries. The remaining states prohibit smoking in all, or nearly all, workplaces.

Employers trying to decide whether to allow or forbid the use of e-cigarettes in the workplace should also consider the following facts:

The Affordable Care Act allows health insurers to charge tobacco users up to 50 percent more than non-users, although some states have indicated they will not let insurers surcharge tobacco users within their borders. The surcharges may not apply to e-cigarettes. However, if your employees buy individual life or health policies, they may have to submit to a blood test. E-cigarette users will have nicotine in their blood, which could cause insurance underwriters to flag them as smokers or nicotine users. A very informal survey of several leading life and health insurers indicated that many charge higher rates for e-cigarette users.

What about wellness programs? As mentioned earlier, e-cigarette manufacturers say the devices can help smokers quit. However, no studies have examined the effectiveness of e-cigarettes in getting former smokers to quit the nicotine habit. Further research should also focus on the effects of secondhand exposure to e-cigarette vapors—can nicotine in e-cigarette vapors reinforce nicotine addiction? What other health effects does secondhand exposure pose?

Please contact us for information on wellness programs, including smoking cessation programs, and for suggestions on dealing with this and other health concerns in your workplace.

Why and How to Avoid Escheat of Abandoned Retirement Funds

Every year, thousands of people disappear into thin air, at least as far as their former employers are concerned. This can create problems for retirement plan sponsors.

If an employee leaves after vesting but before the plan's retirement age, benefits generally stay with the plan until the employee claims them at retirement. Several situations could change this, though, leaving employers with the problem of handling unclaimed funds:

1. Plan terminations: To terminate a plan, an employer must convert remaining funds to cash and distribute them as soon as possible.
2. Plan clean-ups: If employers want to stop paying unnecessary administrative costs, they may cash out small accounts (generally less than $5,000) that former employees leave behind. The employer or its plan administrator must convert balances to cash, pay the appropriate amount to the IRS and roll the remainder into an IRA. For amounts less than $1,000, the plan administrator can send a check for the remainder to the former employee's last known address.
3. Uncashed checks: Sometimes, an employee requests or expects a cash-out, but the check remains uncashed.

If a plan participant can't be located, what does a plan sponsor do with his/her abandoned funds?

All states require financial institutions, including insurers, brokerage firms and other firms that manage retirement plans, to report when personal property has been abandoned or unclaimed after a period of time specified by state law — often five years. Before a plan account can be considered abandoned or unclaimed, the plan must make a diligent effort to try to locate the account owner. If the plan is unable to do so, and the account has remained inactive for the period of time specified by state law, the plan must report the account to the state where the account is held. The state then claims the account through a process called "escheatment," whereby the state becomes the owner of the account.

As part of the escheatment process, the state will hold the account as a bookkeeping entry, against which the former account owner may make a claim. States tend to sell the securities in escheated accounts and treat the proceeds as state funds. When a former account owner makes a valid request, however, the states will normally provide the former owner with cash equaling the value of the account at the time of escheatment.

Employers can avoid escheat on plans governed by ERISA by adopting plan language that expressly states that plan participants who the plan determines to be lost after a specified period will forfeit their funds. This allows employers to retain these funds, which they can use to offset plan administration expenses. Wouldn't you rather have the balances of missing participants and be able to apply them toward plan administration expenses, rather than seeing them go to the state?

For more information on selecting and managing retirement plans for your employees, please contact us.

MyRA—New and Improved Retirement Plan, or Not?

In his State of the Union address, President Obama announced that he would direct the Department of the Treasury to create "myRA" — a "starter" retirement savings account for low- to middle-income Americans. Employers who choose to participate in a pilot program will be able to offer their employees the myRA by the end of 2014. Should they?

The program makes it easy for employees to save a small nest egg. Features that help them do so include:

- Available to households earning up to $191,000 per year; $129,000 for individuals.
- No or very low cost for employers: employers will not administer or contribute to accounts.
- Payroll-based contributions, as low as $5 per month or week; up to $5,500 per year.
- Low initial investment: participants can open an account with as little as $25.
- Portable: Employees can keep their account when they change jobs.
- Account holders can roll their funds into a private-sector retirement account at any time; they must do so when their balance reaches $15,000. Workers will be able to withdraw contributions at any time without penalty. However, withdrawal of interest earned before age 59½ will result in taxes and possible penalties, as in a Roth IRA.

When this newsletter went to press, the nonpartisan Employee Benefit Research Institute (EBRI) had not examined the myRA proposal thoroughly. However, EBRI noted that past surveys have indicated employers would support payroll deduction for retirement savings if employer responsibility were limited to sending employee contributions to a designated account. In addition, workers in past Retirement Confidence Surveys have said they could save small amounts. The payroll deduction feature of the myRA would make saving easier.

Critics note that the plans would be structured like a Roth IRA but with a much lower annual contribution cap of $5,000. And while President Obama used the fact that the myRA funds would be invested in government bonds to tout the program's safety, government bonds typically have much lower yields than other investments. At the typical government bond rate of about 2 to 3 percent, funds invested over the long term would likely not keep up with inflation.

The gold standard defined contribution retirement plan remains the traditional 401(k). Employers who are daunted by the possibility of paperwork and nondiscrimination tests have other options. Please call us to discuss employee retirement plans.

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