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EMPLOYEE BENEFIT SOLUTIONS

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Your Employee Benefits Newsletter

August 2024

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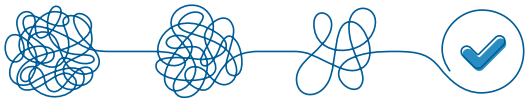

The first week of August is "Simplify Your Life" week – a time to refocus and declutter. At McGriff, we streamline your benefits administration with proven solutions for complex problems. Our industry experts analyze regulations, agency guidance, and ongoing litigation to make sure your company can easily cut through the clutter to receive the information it needs to make informed decisions. When it comes to employee benefits, you can count on us for focused service all year long.

Upcoming Compliance Deadlines

Sept 30

Summary Annual Report (Calendar Year Plans)

If an employer is required to file a Form 5500, it must also provide a summary of the information in the Form 5500 to plan participants in the form of a summary annual report (SAR). Generally, the plan administrator provides the SAR within nine months of the close of the plan year – for calendar year plans, that deadline is September 30, 2024. However, if an extension to file Form 5500 is obtained, then the plan administrator must furnish the SAR within two months after the close of the extension period. Plans that are exempt from the annual 5500 filing requirement are not required to provide a SAR. Completely unfunded health plans are also generally exempt from the SAR requirement.

Oct 14

Medicare Part D Notices

The Centers for Medicare and Medicaid Services (CMS) requires plan sponsors that provide prescription drug coverage to furnish Part-D-eligible individuals with a notice disclosing the creditable or noncreditable status of their coverage by October 14, 2024. If a health plan's open enrollment period begins on or before October 14, plan sponsors can meet this requirement by including the Medicare Part D notice in the plan's open enrollment materials.

The Inflation Reduction Act of 2022 includes a provision increasing the actuarial value of the standard Medicare Part D benefit. Therefore, we expect many high-deductible health plans (HDHP) to lose creditable status in 2025. Because of this expectation, employers should make a good faith effort to provide employees with notice as early as possible in advance of the October 15 Medicare Part D annual open enrollment period to allow employees time to make informed decisions.

Political Discussions in the Workplace

Expressing oneself is a right afforded to every American, no matter where that expression takes place, right? When it comes to the workplace, the answer is: It depends.

Employers have a responsibility to promote inclusiveness and encourage respect among employees. Unfortunately, political expression can have the opposite effect. In certain instances, such as when an employee's political expression disrupts or harms productivity in the workplace, private sector employers may choose to limit such expression.

Politics' Polarizing Effects

It doesn't take much for a political conversation to turn nasty. Allowing such discourse without regulation can quickly lead to workplace distractions. The last things employers need are employee division and productivity disruptions.

To complicate matters further, political conversations can weave into other potentially litigious topics, like gender and reproductive rights. Conversations that wade too far into certain topics can lead to potential discrimination or harassment claims.

Beyond interpersonal and legal ramifications, allowing overt expressions of disruptive employee political expression can reflect how the public views an employer. For instance, if employees in customer-facing roles distribute political materials on the job, those customers might ascribe that political affiliation with the company itself. Unchecked, this lack of image control can be especially damaging for employers.

Legal Considerations

As the saying goes: people have a right to free speech, not a right to employment. In other words, private sector employees typically are free to express their views, but that doesn't mean they are free from repercussions in all circumstances.

However, this doesn't mean employers can simply retaliate against employees for expressing themselves. There are a number of factors to consider with regard to employee expression, including:

- Whether the employer is private or public
- Applicability of federal, state and local laws
- Union status of the workplace
- Company policy

Public employers generally are subject to state and federal constitutional provisions, including the First Amendment, which protects political speech. However, there are instances in which speech is not protected, including when such speech interferes with employees' workplace duties or creates a workplace conflict, among others.

On the other hand, private employers do not face the same restrictions as the public sector. In most instances, as long as the workplace restrictions do not otherwise violate the law, private employers are free to dictate what is and what is not considered acceptable workplace behavior. States have different protections for certain speech, leading to a complex web of competing employment laws. For this reason, employers should seek legal counsel when dealing with political expression in the workplace.

Employer Considerations

Employers in the private sector should consider their own standards for what conversations are inappropriate in the workplace. For example, loud and disruptive conduct that targets another employee. In fact, certain viewpoints may actually violate other workplace guidelines, like equal opportunity and anti-harassment policies.

Employers can remind employees of their workplace standards in a number of ways, including offering ongoing harassment training or circulating notices about inappropriate topics. Further, employers are encouraged to establish and communicate clear expectations about their policies on political expression.

As in the case of acceptable speech standards, private employers can, in certain instances, determine when it's appropriate to discipline an employee when their political comments get out of hand. Employers should consider whether the employee was warned about their comments previously, who heard the comments, if the comments violate workplace policies and how the comments reflect on the employee themselves. Additionally, some states and local governments have laws protecting employees from adverse employment actions because of their political speech. The scope of the protections varies greatly among states' laws, so employers are encouraged to consult with local counsel prior to acting.

Lastly, employers must be careful to enforce their workplace standards uniformly. Disciplining one employee over another for similar comments could leave an employer open to a harassment or discrimination claim.

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Are You Prepared for the Next Active Assailant Incident and Crisis Response?

August 8 | 2:00 p.m. EDT | 1.0 PDC SHRM/HRCI

In recent years, active assailant incidents have become a growing concern and being adequately prepared for such events and utilizing effective response tactics can help minimize losses. During this webinar attendees will learn:

- Current industry best practices
- Common gaps within organization's active assailant planning and preparation that are leaving them exposed to unnecessary risk
- Mass notification technologies and why they are important
- Simple steps that can help organizations better prepare for an active assailant event
- Q&A with Andy Peloquin, former Director of Security for the RT91 Las Vegas shooting event. Learn how all litigation was dropped against Live Nation and the venue because of Mr. Peloquin's planning and preparation.

Register

Leveraging Artificial Intelligence in Predicting Future Medical Claim Costs: An Actuarial Perspective

In the realm of insurance, predicting future medical claim costs is pivotal for maintaining financial stability and offering competitive premiums. Traditionally, actuarial methods have been the backbone of this process, relying heavily on historical data and statistical models. However, the advent of artificial intelligence (AI) has revolutionized this landscape, offering unprecedented opportunities to enhance prediction accuracy and efficiency.

AI algorithms, particularly machine learning (ML) models, excel at extracting patterns and insights from large and complex datasets. In the context of medical claim costs, this means leveraging AI to analyze vast amounts of historical claims data, including patient demographics, diagnoses, treatments, and associated expenses. By doing so, actuaries can uncover subtle relationships and risk factors that may have previously gone unnoticed, leading to more accurate predictions of future claim costs.

One of the key advantages of AI is its ability to handle non-linear relationships and complex interactions among variables. Traditional actuarial models often rely on linear assumptions,

(Continued...)

which may oversimplify the intricacies of the healthcare landscape. AI, on the other hand, can detect and incorporate nonlinearities, allowing for more nuanced and precise predictions. For example, AI algorithms can identify how certain combinations of medical conditions or treatments may impact overall claim costs differently than would be predicted by linear models.

Furthermore, AI enables real-time data analysis, allowing insurers to adapt quickly to changing trends and dynamics in the healthcare industry. By continuously updating models with the latest information, insurers can better anticipate shifts in medical utilization patterns, emerging health risks, and advancements in medical technology. This proactive approach not only improves prediction accuracy but also enables insurers to mitigate potential risks and optimize resource allocation.

Another area where AI can significantly enhance prediction accuracy is in fraud detection. Medical insurance fraud is a persistent challenge, costing insurers billions of dollars annually. AI-powered algorithms can analyze vast amounts of claims data to identify suspicious patterns indicative of fraudulent activity. By flagging potentially fraudulent claims early on, insurers can take prompt action to investigate and prevent financial losses.

Despite its potential benefits, integrating AI into actuarial practice requires careful consideration of ethical, regulatory, and privacy concerns. Actuaries must ensure that AI algorithms are transparent, explainable, and free from biases that could lead to unfair treatment of policyholders. Additionally, compliance with data protection regulations, such as HIPAA in the United States, is paramount to safeguarding patient privacy and confidentiality.

In conclusion, artificial intelligence holds immense promise for revolutionizing the prediction of future medical claim costs from an actuarial perspective. By harnessing the power of AI, insurers can enhance prediction accuracy, improve fraud detection, and adapt swiftly to evolving healthcare dynamics. However, successful implementation requires a thoughtful approach that addresses ethical, regulatory, and privacy considerations. As AI continues to advance, actuaries must embrace innovation while upholding principles of transparency, fairness, and integrity in their predictive modeling practices.

This article was previously published in HR Professionals Magazine. For your free digital subscription, click here.

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McGriff Senior Vice President, Practice Leader, Actuarial & Underwriting

Compliance Q & A: Retroactive Termination of Benefits Coverage

QUESTION: We just realized that a participant who has been ineligible for coverage for some time is still listed as an active employee on our group health plan. Can we terminate coverage back to when this person was first ineligible for coverage? If not, what do we need to consider now?

ANSWER: Because the Affordable Care Act (ACA) generally prohibits termination of coverage that has a retroactive effect, the plan administrator will likely need to terminate coverage prospectively instead of back to the original date of ineligibility for coverage. Many plan administrators choose to make the loss of coverage date the last day of the end of the current month in which the error is discovered and offer COBRA as of that date. The timing of COBRA should also be considered, and the plan administrator may need to work with the COBRA administrator and relevant carriers to avoid inadvertently self-insuring claims due to the error. The risk involved in these decisions can vary based on factors such as the length of time that has passed since eligibility was lost, the probability of the participant electing COBRA, and the carrier/vendors' willingness or ability to accommodate the desired approach.

Read the full Retroactive Termination of Benefits Coverage Compliance Q&A here.

McGriff Retirement Practice Case Study: Plan Termination

Client Profile

A manufacturing company was struggling with cost pressures, including rising pension costs (especially pension expense, at least partially due to declining interest rates at that time) and was concerned with how high the costs might be in the future.

The company hired the McGriff Retirement Consulting practice to provide a five-year projection of pension expense under different scenarios and to convert the value of a year of pension accrual into a comparable defined contribution amount at a few different ages. They were deciding whether or not to freeze the pension plan and wanted to understand both the benefit and cost implications.

Challenge

Will the company's pension plan remain affordable, or should they freeze it and provide a better 401(k) match? What was the long-term objective for the pension and 401(k) plans and how would they get there?

Our Approach

We showed the plan sponsor the results of a five-year projection that looked at either maintaining or freezing their pension plan while making a specified minimum dollar contribution amount, even if the minimum required contribution amount was lower.

They wanted to see the results under three different interest rate scenarios assuming a fixed-dollar contribution amount. We provided the cash funding, accounting, and PBGC impact of each scenario. We also showed the benefit cost as a percent of pay and the projected benefits for an "average" employee. Ultimately, they decided the cost would outweigh the benefits.

After showing the sponsor the results of the five-year projection, they asked to see a seven-year projection using only current interest rates, but assuming four different fixed contribution amounts, with additional attention focused on PBGC premium savings.

Solution

After looking at the projection results and discussing the options, the plan sponsor decided on a multi-year strategy to eventually terminate the pension plan. They would freeze the pension plan and make a minimum contribution of $500,000 each year. They also decided to offer a lump sum window to certain terminated vested participants while avoiding any settlement charges by setting an appropriate threshold. Their goal, they said, was to terminate the pension plan "when our funded status is close enough" (without really defining what that meant).

Results

The plan sponsor made the planned $500,000 contribution each summer, offering three lump sum windows over a six-year period and avoiding settlement charges each time by setting the payout threshold to eliminate that possibility.

They continued to monitor the funded status compared with the projection results each year while deciding whether to stay on the path or change course. Then, when interest rates finally rose and their funded status became "close enough" (within $1 million, i.e., two more years of the planned contribution), they decided to change the asset allocation and terminate the plan.

While results will differ based on each employer's unique circumstances, this case study illustrates the consultative review process we use to serve our clients and help them achieve their goals.

Dan Berry
McGriff Retirement Consulting Practice

McGriff Brings You Mineral!

August 20 | 2:00 pm EDT

McGriff is excited to provide our Employee Benefits clients with MINERAL – a robust web-based HR and compliance resource. Through your McGriff relationship, you have access to **Mineral Live**, a team of HR experts standing by to answer your questions or provide advice on virtually every HR or compliance-related issue; **Mineral Comply**, an award-winning online resource center for all of your workforce issues, including a Living Handbook Builder; and **Mineral Learn**, an incredible online training platform with more than 250 web-based courses for your employee training needs.

Join us to learn about these exciting features and many more within your McGriff-provided Mineral account.

Register

HSA/HDHP Limits Will Increase for 2025

The following chart shows the HSA and HDHP limits for 2025 as compared to 2024. It also includes the catch-up contribution limit that applies to HSA-eligible individuals age 55 and older, which is not adjusted for inflation and stays the same from year to year.

Type of Limit	2024	2025	Change
HSA Contribution Limit			
Self-only	$4,150	$4,300	**Up $150**
Family	$8,300	$8,550	**Up $250**
HSA Catch-up Contributions (Not subject to adjustment for inflation)			
Aged 55 and older	$1,000	$1,000	No change
HDHP Minimum Deductible			
Self-only	$1,600	$1,650	**Up $50**
Family	$3,200	$3,300	**Up $100**
HDHP Maximum Out-of-Pocket Expense Limit (Deductibles, copayments and other amounts, but not premiums)			
Self-only	$8,050	$8,300	**Up $250**
Family	$16,100	$16,600	**Up $500**

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