It Benefits You

Your Employee Benefits Newsletter

October 2024

In This Issue:

Fall is in the Air

As the crisp fall air rolls in, so does open enrollment season for many of our valued clients! In our October edition of It Benefits You, we’re featuring important updates to several compliance mandates, tips for building effective wellness strategies, and proven employee communication tools to drive engagement.

Upcoming Compliance Deadline - Oct. 14

Medicare Part D Creditable Coverage 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 Oct. 14, 2024. As long as the recipient has been provided the disclosure notice within the prior 12 months, this annual distribution requirement is deemed satisfied, so some employers may prefer to include it with annual enrollment materials.

The Inflation Reduction Act of 2022 includes a provision increasing the actuarial value of the standard Medicare Part D benefit. As Part D benefits become richer, some group health plans may no longer qualify as creditable coverage under the actuarial analysis.

- Fully insured plans should ask the carrier for confirmation of the plan’s creditable/non-creditable coverage status.
- Self-funded plans should discuss this determination with the TPA/PBM; however, if this vendor is not willing or able to assist, the McGriff Actuarial & Underwriting Team may have resources that can help.

Because of this, we expect many HDHP plans to lose creditable status in 2025. Employers should make a good faith effort to provide employees with notice as early as possible once plan designs are finalized for the 2025 plan year to allow employees time to make informed decisions. If an employee has delayed enrollment in Medicare Part D and is enrolled in a plan that is no longer deemed creditable, this change in status will create a two-month special enrollment period for Medicare Part D; so, it will be important for employees to make a timely evaluation of their coverage options.

IRS Releases 2025 Affordability Percentages

Under the employer shared responsibility provisions of the Affordable Care Act (ACA), an Applicable Large Employer (ALE) is required to offer health insurance coverage that is affordable and provides minimum value to full-time employees (and at least minimum essential coverage to their dependents) or risk an employer shared responsibility penalty.

For the 2025 plan year, an ALE's health coverage will be considered affordable if a full-time employee's contribution for self-only coverage under the lowest-cost minimum value plan option does not exceed 9.02% of their household income. This is an increase from the affordability contribution percentage for 2024. As a result, some employers may have additional flexibility in setting their employee contributions for 2025 to meet the adjusted percentage.

The IRS provides three optional safe harbors that allow an ALE to calculate the affordability of its health coverage without requiring information on an employee's household income: the federal poverty line, the W-2, or the rate of pay. The best affordability safe harbor is a fact-specific determination based on the ALE's employee benefits strategy and employee population.

Our McGriff Compliance Q&A sets out the pros and cons of each affordability safe harbor to help employers decide the best option for their employee benefits strategy and employee population.

Laura Clayman, JD, SHRM-CP
McGriff Senior Employee Benefits Compliance Officer

Unearthing Your EAP's Hidden Potential

Some of the best guidance and support that I have ever received came courtesy of my workplace employee assistance program (EAP). Many years ago, I found myself battling insomnia at 3 am on a Monday night, feeling overwhelmed with stress and struggling to cope with grief. Working in employee benefits, I was not only familiar with EAP services, but I often championed their value to clients.

Thankfully, I had taken my own advice and had the number already saved in my phone so that I didn't have to incur the additional stress of digging through my benefits information. As soon as I called and connected with someone, I felt an instant sense of relief and calm. There was a feeling of comfort knowing that at any hour of the day or night, 365 days a year, I could reach someone on the job, ready, willing, and able to help me navigate through life's difficulties. Although friends and family can be supportive, we know that they have their own obligations and can't always be as objective as we would like. The EAP counselor was there not only to provide a sympathetic ear but also to help me figure out a plan for moving forward.

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She told me not to worry about later in the week, the following week, or the future in general. She told me to simply focus on what I needed to do the next day, plan how I was going to do it, and walk through that plan with her. Then, she told me to repeat that the following day and just focus on putting one foot ahead of the other. It was simple yet great advice that I still draw upon today when feeling overwhelmed.

It's not necessarily the advice she provided but the level of human support and encouragement that was needed at the right time that I think made the difference. I know that there are certainly many other people who have been in my situation and likely had access to an EAP but either were not aware of it or they didn't feel comfortable reaching out. Utilization rates are low despite high rates of depression, anxiety, and stress, along with the need for the many other types of assistance that an EAP can provide, such as financial, legal, and caregiver support.

As there is good evidence to support that use of EAP services can improve health, well-being, and productivity, optimizing this overlooked benefit can be a way of enriching your benefit plan without necessarily adding much additional.

Below are some of the common challenges, as well as some potential solutions, to help improve EAP engagement.

People are afraid that what they share with the EAP will not be confidential.

All it takes is an Internet search on the topic, and you will find many posts expressing the skepticism and fear that employees have about calling their EAP with sensitive information or the occasional workplace vent. Be upfront and don't be afraid to over-communicate that EAP services are administered through a third party and are kept strictly confidential, even if someone is asked to provide some employment information to verify eligibility.

They don't know about it.

This is by far one of the most common reasons that hinders utilization. Communications on EAP services need to be clear, frequent, multi-faceted, and specific. Instead of listing counseling, legal, and financial services, list the number of visits available per episode and examples of these services. For example, reminders of typical EAP services can be put into monthly communications with different areas of focus, such as managing overwhelm, finding a counselor for a teenage child, help with finding a nursing home or daycare, marriage counseling, ID theft services, or managing work/life balance.

You can also cross-promote your EAP in other programs, such as wellness and safety, as it can connect and cross-over with both. Using other tools, such as engagement platforms and communications apps, can help provide hub and spoke models to steer users and reduce "app fatigue" by having a central location of information and access.

They (or someone they know) had an unsatisfactory experience with the EAP.

Whether they didn't get the help they wanted when they needed it or didn't connect well with the counselor, it only takes one bad experience when people are already feeling vulnerable to make them less likely to try again. Be sure to take feedback from your employees and research your EAP benefits to make sure that they are receiving good reviews, provide timely service, are accessible to all, promote diversity and inclusion with care providers, and do a good job communicating what they offer. If your EAP is not performing well, it is worth looking into potential other solutions or enhancing the features available with buy-up options.

It is also important to marry EAP awareness campaigns with toolkits of other resources available that might be more appropriate for different situations or complement what the EAP can offer. Provide contact information for 24/7 suicide and other crisis hotlines, support groups, financial resources (such as lists of local low and no-cost veterinary services, support for utilities, rent, and food), and information on other benefits available through voluntary and medical benefits.

If you want first-hand experience, it can't hurt to try contacting EAP services for yourself and gauge the accessibility and user experience.

They don't know how to access it.

Be sure to include the who, what, when, where, why, and how on EAP services, and don't assume that people already know. Periodically remind employees of the name of your EAP provider, examples of services,

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confidentiality, and how they can get access. It is also good to provide nudges to be prepared to make access easier in the event of a crisis. As mentioned, recommending that people store the phone number or download the app before they need it can help minimize any discomfort they might have with trying to find it when they are in the grip of a stressful event.

In addition to emails, provide signage, mailers, lunch and learns, communications apps, and information at your health and wellness benefits events to keep the reminders fresh. Do not keep EAP information something that you only know about if you specifically reach out to HR; making the information anonymously freely available to employees and dependents can allow people to access services without an intermediary.

While the EAP is certainly a commonly overlooked benefit, it is not alone in that category, as many employees can feel overwhelmed and struggle to understand their benefits. By creating more familiarity and addressing the barriers to engagement, you can help develop a better value for your investment, reduce risk, and enrich existing benefits. With many EAPs offering enhanced services, such as on-site crisis management, managerial training, and more robust mental health programs, the right EAP can be a hidden gem for supporting your HR team and employee well-being.

Katie O'Neill, DC, BS
McGriff Clinical Wellness Practice Director

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Get RESULTS from Your Wellness Program Instead of Just Giving Away Money

A common problem with employer wellness programs is that they don't really drive behavior change that improves health outcomes.

In a typical homegrown wellness program, an employer incentivizes their employees to complete basic health activities like an annual physical and lab work. The rewards often range from $150 to over $2,000 per year in some cases. The downside is that if people aren't sufficiently educated on their lab results or motivated to listen to their doctor and improve outcomes, they can just go through the motions in order to get the incentive.

That leads to this common lament from employers: "We're just giving money away while our population remains unhealthy and our premiums continue to increase."

An alternative approach, i.e., a new incentive model, is in order - one that lets employers stratify the rewards based on actual health outcomes rather than solely rewarding action.

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For example, imagine an employer currently offers its employees a $500 reward just for completing their annual physical and labs. With 50% of their 200 medically enrolled employees participating in the program, they would spend $50,000 in rewards.

But with the alternative approach, the employer could stratify the reward amount so that the higher the health level, the higher the reward. For simplicity, the employer would contract with a wellness program provider that can assess employee health in one of three tiers: high risk, moderate risk, and low risk.

The rewards could be as follows: High Risk: $100, Moderate Risk: $250, and Low Risk: $500.

In this case, assuming the employees are split evenly across these three risk buckets, the employer's total reward payout would only be $28,333, a savings of $21,667 ($50,000 - $28,333).

For the employer, their $21,667 in savings helps to partially (if not fully) subsidize the wellness program that assesses employee health risks. In other words, if your wellness program cost less than $21,667 annually, and you had to pay out $28,333 in rewards, you would've restructured your wellness incentives at no additional cost.

But there's even more benefit than that.

Remember, money is a strong motivator for most, if not all, participants. Therefore, the High and Moderate risk employees who are not receiving the full reward will now be motivated to improve their health risk profile in order to earn the maximum reward (and also improve their health!). And encouraging coaches can take that motivation to the next level.

This health improvement is where both employer and employees can enjoy the intended results. Modifiable health risk factors such as smoking, high blood pressure, high blood glucose, and stress have all been shown to have a negative effect on healthcare costs, productivity, and absenteeism. So if an employee is sufficiently motivated to improve their health behaviors and modifiable risk factor(s), they not only get healthier, but they also boost their employer's bottom line.

The economic impact of improving modifiable risk factors typically far outweighs the cost of an effective wellness program.

As an example, 20.8%[1] of the U.S. working population uses tobacco, and each U.S. worker who smokes costs on average an additional $5,816 a year[2] in excess health care spend and lost productivity (not including absenteeism).

In our earlier example, if 20% of the population of 200 medically enrolled are using tobacco (i.e., 40 people), the estimated excess healthcare cost is $232,640 (40 medically enrolled using tobacco x $5,816 per user). If just four of these individuals were persuaded to stop using tobacco, that would yield more than the cost of the program. Similar improvements with other risk factors would help even more.

Given those compounding effects across numerous modifiable risk factors, it makes eminent sense to invest in an approach where you can stratify health risks and use those to also stratify wellness rewards (instead of just doling out money) and encourage real behavior change to drive better health outcomes.

One last word. To be clear, there are several regulatory considerations (ACA/HIPAA, GINA, ADA) that affect the design of wellness programs. These cover such topics as reward amounts, how to make the full reward available, ensuring the availability of reasonable alternative standards to earn the reward, and paying out the full reward. We recommend speaking with legal counsel to ensure you have all your regulatory ducks in a row.

Nirav Desai
SVP and Managing Director, Peak Health

References:

1 Cornelius ME, Wang TW, Jamal A, Loretan CG, Neff LJ. Tobacco Product Use Among Adults — United States, 2019. MMWR Morb Mortal Wkly Rep 2020;69:1736–1742.

2 Adams JM. Good for Health, Good for Business: The Business Case for Reducing Tobacco Use. Public Health Rep. 2020 Jan;135(1):3-5.

To learn more about how wellness programs that stratify health risk can help you stratify your rewards, improve your employee population's health, and drive economic benefit, check out Peak Health. Peak Health uses nurses to provide outcomes-driven health risk assessments and wellness coaching. To connect with Peak Health, contact your McGriff Employee Benefits account representative.

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

DOL Updates Gag Clause Attestation Resources for Upcoming December 31 Submission Deadline

Effective in 2020, the CAA prohibits health plans and issuers from entering into contracts with health care providers, third-party administrators (TPAs) or other service providers that contain gag clauses (i.e., clauses restricting the plan or issuer from providing, accessing or sharing certain information about provider price and quality and de-identified claims).

Plans and issuers must annually submit an attestation of compliance with the CAA's gag clause prohibition to the Departments of Labor, Health and Human Services, and the Treasury (Departments). The first attestation was due by December 31, 2023. Subsequent attestations are due by December 31 of each following year.

The Department of Labor (DOL) has now updated its Annual Submission Instructions and User Manual for the 2024 attestation.

Employers should review their contracts with issuers, TPAs or other health plan service providers to confirm they do not contain prohibited gag clauses.

Also, employers should review what action they may need to take to comply with the gag clause attestation requirement:

- An employer does not need to provide an attestation for a fully insured health plan if the issuer for the plan provides the attestation.
- Self-insured employers can enter into written agreements with their TPAs to provide the attestation, but the legal responsibility remains with the health plan. While some TPAs are willing to submit attestations on behalf of their self-insured groups, other TPAs have indicated they are unwilling to do so.

Employers who need to submit their own attestations should review the latest instructions and user manual for submitting attestations.

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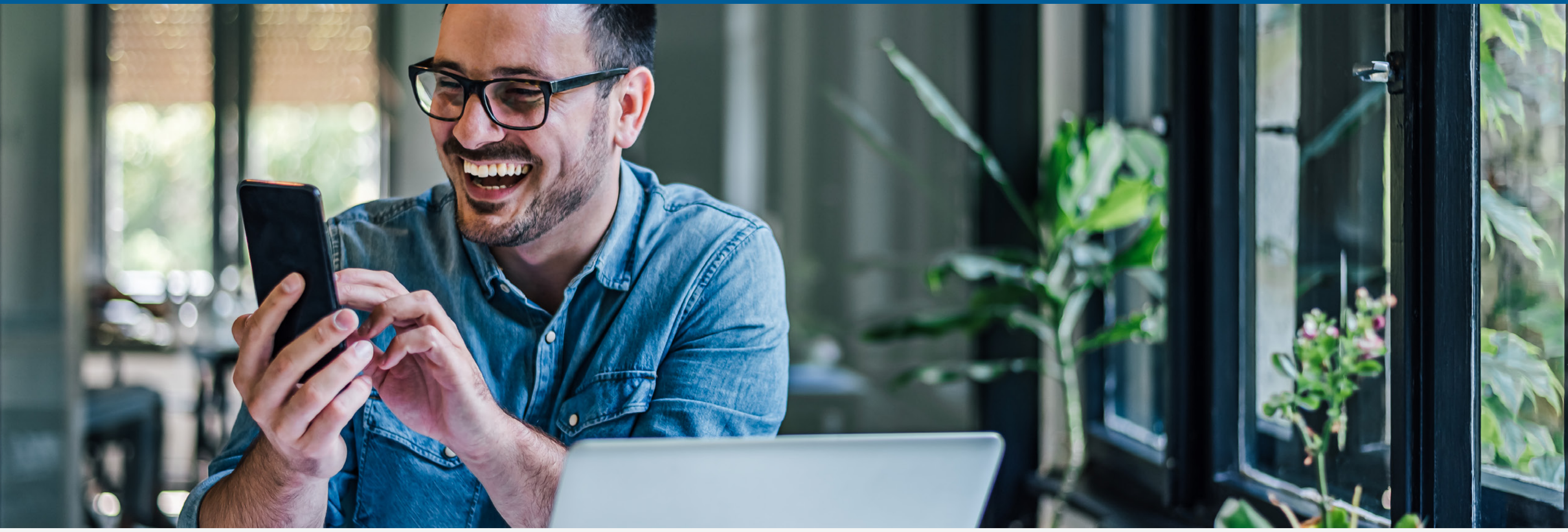

McGriff Journey® Case Study: Enhancing Employee Connection & Engagement

The 2024 McGriff National Benefit Trends Survey results highlighted that employee engagement is now the second most important focus for HR teams across the country, behind only retention. Click here to learn how the McGriff Journey mobile app helped one of our clients enhance employee connection and engagement, leading to a sense of community among their employees.

Meta Pixel Website Tracking Litigation: Background and Trends

October 17 | 2:00 p.m. EDT | 1.0 PDC SHRM/HRCI

Although pixels can prove useful for businesses, they can also carry a wide range of risks, especially pertaining to data collection and processing. Companies that utilize pixels could be more susceptible to data privacy concerns, regulatory exposures, and cybersecurity threats. Join industry leaders as they discuss the wrongful collection of data, meta pixels and the unique state privacy laws impacting these risks.

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MHPAEA Changes Announced

On Sept. 9, 2024, the Departments of Labor, Health and Human Services, and the Treasury released a final rule to strengthen the requirements of the Mental Health Parity and Addiction Equity Act (MHPAEA).

The final rule changes existing non-quantitative treatment limitation (NQTL) standards, requires health plans and issuers to collect and evaluate relevant data to assess the impact of NQTLs, and establishes new minimum standards for developing NQTL comparative analyses.

Stay tuned for more commentary from the McGriff Employee Benefits Compliance Team on these final rules.

McGriff Brings You Mineral!

October 15 | 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.

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