It Benefits You

Your Employee Benefits Newsletter

September 2024

In This Issue:

McGriff is Proud to Be Part of Your Team

It's time to huddle up and strategize for success in your employee benefits program. Your McGriff Employee Benefits partner has put together a strong team of actuaries, compliance officers, technology experts, and pharmacy consultants to make sure you're poised for success this fall, the most pivotal season of the year in benefits. With the right strategy and support, your champion employee benefits program can be a champion.

2025 Open Enrollment Checklist

To get ready for open enrollment, employers who sponsor group health plans should be aware of the legal changes affecting the design and administration of their health plans for plan years beginning on or after January 1, 2025. These changes include limits that are adjusted for inflation each year, such as the Affordable Care Act's (ACA) affordability percentage and cost-sharing limits for high deductible health plans (HDHPs). Employers should review their health plan's design to confirm that it has been updated, as necessary, for these changes.

In addition, any changes to a health plan's benefits for the 2025 plan year should be communicated to plan participants through an updated summary plan description (SPD) or a summary of material modifications (SMM).

Health plan sponsors should also confirm that their open enrollment materials contain certain required participant notices, when applicable, such as the summary of benefits and coverage (SBC). Some participant notices must also be provided annually or upon initial enrollment. To minimize costs and streamline administration, employers should consider including these notices in their open enrollment materials.

Our McGriff Open Enrollment Checklist can help guide employers through plan design decisions and satisfy annual notice requirements.

This checklist is included, with permission, from Zywave.com.

Upcoming Compliance Deadlines

Sept
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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. We expect that some plans that passed in 2024 will 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.

Using Medical Loss Ratio Rebates

The Affordable Care Act requires health insurance issuers to spend a minimum percentage of their premium dollars on medical care and health care quality improvement activities rather than administrative costs. This requirement is known as the medical loss ratio (MLR) rule. The minimum percentage is 85% for issuers in the large group market and 80% for issuers in the small group and individual markets. Issuers that do not meet the applicable MLR standard must provide rebates to policyholders by September 30 each year.

As a general rule, employers should use the rebate within three months of receiving it to avoid ERISA's trust requirement. This checklist outlines key steps employers should take to identify permissible options for using these rebates.

This checklist is included, with permission, from Zywave.com.

The Early Bird Gets the Worms and Other Lessons for Better Recruitment Results

In case you haven't noticed, the year is 2024 and we are in the midst of the greatest advancements in technology in the history of humankind. No longer burdened by "snail mail," "in-person applications," "letter writing," "paper checks" and hundreds of other time-consuming tasks, technology has changed our world. Mostly for the better (although I know I will get some pushback on that!).

So why, in this time of instantaneous information, are job applicants left waiting to hear from employers – often for weeks – after they've submitted their application? Job boards are full of positions from employers who say they're "urgently hiring" and yet applicants sometimes never hear back after they've expressed interest.

There are a number of issues that may be involved here, but one of the biggest recruitment lessons is "the early bird gets the worm!" Companies who can assess, interview, and make hiring decisions quickly and efficiently are winning the war for the best talent. The ones who languish in the labyrinth of indecision are left with the least desirable candidates and suffer loss of productivity and reputation when service levels are not met due to unfilled positions.

Another recruitment lesson is to avoid a bias against "older" or "well-seasoned" applicants. For many reasons, individuals who are nearing or at traditional retirement age are deciding to postpone retirement. But they're often overlooked for promotion or employment opportunities because of a bias regarding their age and/or experience levels. These effective and innovative workers are too often dismissed as viable candidates.

Thirdly, another thing that gets in the way of effective hiring is the drug screen. Although very controversial, with the legalization of marijuana not only for medical purposes but for recreational use in most states, many potential workers are unable to pass a drug screen. With an eliminating screen showing only "trace" amounts, an applicant can miss out on an excellent job opportunity, even if their consumption of THC was weeks earlier. There is no such prohibition for alcohol use. In fact, an applicant can show up for a drug screen with a hangover from over-imbibing the previous night and still be considered fit for hire. Further, they could have just had an alcoholic beverage immediately before the drug screen and, unless they are exhibiting signs of inebriation, would still pass the test.

So, what are the answers to these three hurdles that get in the way of hiring faster, better, and more efficiently? Here are a few ideas:

1. Review Your Process

Ask yourself where is the bottleneck that keeps us from making hiring decisions in a few days rather than weeks? Don't wait for a "better" candidate to magically show up in your inbox. Review all applicants as soon as you receive their resumes and if they are eliminated from consideration be sure to let them know right away – no need to wait until you've made a hiring decision. When your company earns a reputation for hiring quickly, your applicant pool will explode. Most job applicants either apply because of a recent issue at their current job or they need to be hired quickly for financial reasons. The company that shows they can make decisions quickly and decisively will get the best talent before other organizations.

2. Analyze Your Qualifications for Each Job

Be honest as to any bias toward experienced workers. What is the concern? That their age will mean they will retire in a couple of years (or less) rather than stay with your company for a full career? Or a belief that your company will have to pay more because of their experience and pay history? Is there a prejudgment that an older worker will not "fit in" with the young culture you believe your company presents? Or maybe that at a certain age an applicant will not be as tech savvy as an employee in their 20s?

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All of these concerns are assumptions (some of them based on stereotypes) that may not be grounded in reality. The truth is there is no guarantee that any employee regardless of age will stay with your company long-term. It is rare for a worker to spend their entire career with one organization. Secondly, a presumption about pay is just that! Employees work at jobs for various reasons – even more so as they age – and money is not always the main factor. But wouldn't it be a smart move to hire that truly experienced worker with a proven track record at a bit higher pay rather than someone at a lower salary who will need months of training?

And by the way, cultural "fit" is never an age thing. It would be quite unusual for any successful company to be only comprised of one generation of workers. At some point, everyone would "age out" and there would be no longevity at all! As for the supposed technology gap, have you noticed, for example, how many older people at the airport use their cell phones to scan their boarding documents? Or use a mobile app to read scriptures or sing hymns at church? Younger workers in 2024 did not invent existing technology. And they are not its sole users. An assumption that older workers do not embrace it is just incorrect – and we all know what happens when we assume!

3. Consider Your Drug Policy

Unless there are specific regulatory, safety or security concerns, you may want to remove THC from the list of prohibited substances on your pre-employment drug screens. As with alcohol, that would not prevent screening for reasonable suspicion once hired. But your candidate pool could be greatly increased with excellent candidates if you viewed marijuana (and its increasing popularity) in the same vein as alcohol.

Again, speed up your processes, consider the older/over-qualified and well-seasoned candidates, and look at the reasons (including those related to drugs) you eliminate potential great workers. It's a different way of thinking. It's a different way of doing. And it's how to win at recruitment in 2024.

Janie Warner
McGriff HR Advisory Practice Leader

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

How to Provide Performance Feedback to Managers

According to a recent Gallup poll, most managers receive little feedback from their direct reports and peers on how effectively they're managing. If managers don't know how well (or poorly) they're performing as managers, and how their approach impacts their team, they can't build on what's good or improve on what isn't working.

Bad management puts organizations at risk. It can result in costly inefficiencies and is often to blame for employees feeling pressure to look busy or, conversely, overworking. On the flip side, great managers elevate their teams, inspiring and empowering good workers to be even better. Great managers know that excellence is a moving target—there's always room to improve, more to learn, and skills to develop.

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Determine What Feedback Would Be Most Valuable to Your Managers

Before you begin soliciting feedback, determine what information would be most useful so you can prioritize what you ask. Consider soliciting information that would both help validate what managers are doing well and provide them with ideas for improvement. In general, the more specific your questions, the better. The following topics should get you started:

- ***Clarity of performance expectations***—How well do the manager's direct reports understand what's expected of them? Do they know what success looks like?
- ***Quantity and quality of the manager's feedback to direct reports***—Are direct reports getting adequate feedback about their performance?
- ***Engagement***—Are the manager's direct reports engaged in their work? Do they care about the success of the team?
- ***Belonging***—Do direct reports feel like they have an important role on the team and place within the company?
- ***Motivation***—Do the manager's direct reports feel inspired to do their best work and continuously improve?
- ***Resources***—Do direct reports have the resources they need to do their jobs? If not, what could their manager do to help?
- ***Self-sufficiency***—Is the manager able to delegate tasks and trust direct reports to do their work with an appropriate level of supervision?
- ***Professional development***—Do direct reports have opportunities to increase their knowledge and build new skills? Are they challenged in ways conducive to their satisfaction and growth?
- ***Psychological safety***—Do direct reports have the freedom to voice questions, concerns, and suggestions without fear of retaliation?
- ***Advocacy***—Do employees feel their manager cares about them and their success? Do they believe their manager has their back? Do they trust their manager?
- ***Cohesion***—Does the manager's team work well together? Are they able to collaborate effectively among themselves and with other teams?
- ***Awareness***—Does the manager know what their direct reports are working on and how that work contributes to the success of the organization?
- ***Compliance***—Does the manager understand and adhere to company policies? Do they take the appropriate steps to minimize risk (e.g., avoiding behavior that could be perceived as discriminatory)?

Positive responses to these questions will indicate that a manager is doing well in their role. Negative responses mean there are opportunities for improvement. Both are valuable if put to good use.

Solicit That Feedback

In rare cases, an employee may feel comfortable providing critical feedback directly to their boss, but it would be unfair to expect this, even in an environment that prides itself on candor and trust. To get reliable and valuable feedback, you'll need a process that inspires curiosity, maintains confidentiality, and prevents retaliation.

Here are a few ways to gather valuable feedback:

- ***Confidential surveys:*** A lot of employee surveys have built-in functionality that maintains anonymity—for instance, by only sharing written responses with managers if they have many direct reports and would therefore be less likely to know which individual provided each comment. We recommend using confidential surveys like this to inquire about manager performance.
- ***Skip-level meetings:*** To dig deeper into potential issues, you might consider skip-level meetings. These are meetings between an employee and their manager's boss. They're difficult to pull off on a frequent basis but making them an annual occurrence can provide another avenue for feedback.
- ***Exit interviews:*** An exit interview is a conversation with a departing employee about their time at the company and the reason for their departure. Sometimes, but not always, departing employees may be willing to speak more candidly than they might while still employed. If you conduct exit interviews, we recommend asking about management practices generally and how the employee felt about their manager specifically.
- ***Peer input:*** To get perspective from a manager's peers, it's fine to reach out to them directly, but we also recommend encouraging managers who work together to ask for and offer feedback among themselves.
- ***Manager self-reflection:*** In their day-to-day work, managers probably aren't thinking much about what management practices they've implemented, how they execute those practices, or why they manage the way they do. All that takes time and focus. One-on-one meetings are a good place for those who manage managers to reflect on management skills and practices. The point isn't to make managers justify what they're doing, but to get their thoughts on what's going well and what could be improved. This input is just as important as feedback from their direct reports and peers.

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Communicate That Feedback

If the feedback you collect would benefit managers in your organization more generally, it may be worth sharing and discussing during management team meetings or incorporated into management training. If the feedback pertains to the practices, techniques, or behavior of an individual manager, specific feedback may be better communicated with that manager directly, provided you can maintain confidentiality.

While it's perfectly fair to hold managers to high performance standards and expect them to be generally receptive to feedback, don't rush to judgment. Individual comments don't tell the whole story and may not always be accurate. When gathering, analyzing, and sharing feedback, keep an open mind and remember that the goal here is to give managers information they can use to help them do their best work and continuously improve.

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Compliance Q & A: COBRA Implications Under Severance Agreements

QUESTION: Typically, when we terminate a management or executive employee, we agree to pay all or part of their COBRA premiums for a period of time. What compliance concerns should we consider?

ANSWER: At first glance, offering to cover all or part of a former employee's COBRA premiums can be an appealing option for companies with departing management or executives. While an employer may subsidize COBRA for terminated employees, including management and executives, there are potential compliance traps for the unwary. These include COBRA notice and election procedures, the impact on eligibility for enrollment in an exchange/marketplace plan and mid-year election events under the Internal Revenue Code's ("Code") Section 125 rules, as well as navigating nondiscrimination rules and potential deferred compensation tax issues under Code Section 409A.

When the underlying group health plan is self-insured, the tax issues are particularly thorny when highly compensated individuals disproportionately benefit from these arrangements, as it is unclear how the Code Section 105(h) nondiscrimination regulations apply to former employees. (It's easier for fully insured groups to avoid the Non-Discrimination Testing (NDT) issues, since Section 125 NDT would only be implicated if former employees could pay COBRA premiums pre-tax from severance pay.) A tax advisor or experienced legal counsel should always be involved when structuring the agreement.

Accordingly, a simpler route to the desired goal can be to provide a lump sum payment that qualified beneficiaries can use to either purchase COBRA or other coverage, e.g., through a spouse's employer or through the individual marketplace.

Read more about COBRA Implications Under Severance Agreements here.

McGriff Brings You Mineral!

September 17 | 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.

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