

ABOUT BOLTON BENEFITS

For over 70 years, Bolton Benefits has been a leader in providing creative solutions in analyzing, designing and implementing employee benefit programs. In addition to preferred carrier relationships and broad market access, we are able to provide a comprehensive array of services ranging from network analysis to Internet/ Intranet services to human resources consulting.

Products and Services:

- **Group Medical, Vision, Dental and Life**
- **401 (K) Plans**
- **Long Term Care**
- **Employee Handbook Guidance**
- **Employee Assistance Programs**
- **And Much More....**

Looking Ahead...

CONSUMER-DRIVEN HEALTH BENEFITS OF GROWING INTEREST TO EMPLOYERS

The rising costs of employment-based health benefits have led some employers to consider restructuring them in favor of a more consumer-driven approach. However, even if consumer-driven health benefits manage to control employer costs for health benefits, they are unlikely to control total costs unless some way is found to affect the spending patterns of the high users of health care services.

Some key points:

- Americans have been spending an ever-increasing amount of money on health care services. Health spending totaled \$73 billion in 1970, rising to \$1.3 trillion in 2000.
- Technological innovation in health care accounts for between 49 percent and 65 percent of increases in health spending, while the comprehensiveness of insurance accounts for between 10 percent and 13 percent, according to recent research.
- The approaches to consumer driven-health benefits fall along a continuum of options. They include the traditional large employer health plan choice model, the out-of-pocket choice model, tiered provider networks, various health spending accounts, and vouchers. At one extreme, employers could provide an array of plan designs from which an employee can choose, as many companies now do. At the other extreme, an employer could simply give employees an increase in cash wages and not offer any health plan, requiring them to determine how best to spend that money on health insurance care services.
- While various types of consumer-driven health benefit approaches might result in more efficient spending on health care services, it would not necessarily mean that spending will either decline or slow down. A movement to consumer-driven health benefits will have implications for health benefit costs, utilization of health care services, quality of health care, the health status of the population, risk selection, and efforts to expand health insurance coverage.

EMPLOYER INTEREST IN HRAS TO INCREASE

A growing number of employers are expected to embrace personal account plans as their latest weapon in their continuing battle to control rising health care costs. And, if designed properly, these plans can successfully reduce both short- and long-term costs.

The Internal Revenue Service recently issued guidelines on personal account plans, also known as Health Reimbursement Arrangements (HRAs), which give employers much more flexibility in how they design and implement personal accounts. Under the guidelines, employers can fund personal accounts that can be used to reimburse workers for out-of-pocket medical expenses, including premiums and deductibles. Employees would not be taxed on the reimbursements and unused funds can be carried forward.

Watch for more information on these plans in future newsletters.

BENEFIT CONTINUATION DURING WORKERS' COMPENSATION LEAVE

One of questions most frequently asked by employers is "how long must I keep paying for health insurance coverage on an employee out on Workers' Compensation Leave?" Until just recently, the answer was never clear. Most employers have kept the employee on the benefit plan for the duration of the absence – sometimes even years. Section 132a of the California Labor Code states: "It is the declared policy of this state that there should not be discrimination against workers who are injured in the course and scope of their employment." The Workers' Compensation Appeals Board (WCAB) has always maintained a policy that employers who have terminated these employees from the medical plan have violated Section 132a and discriminated against such employees for having filed a Workers' Compensation claim.

All that has now changed. The WCAB has announced that it will no longer consider such benefit terminations as evidence of discrimination under Section 132a. This is due wholly to the Employee Retirement Income Security Act (ERISA) pre-emption which governs most group medical plans. ERISA generally prohibits state laws from mandating certain terms and conditions of benefit plans which are considered to be under the jurisdiction of ERISA. Providing and discontinuing benefit coverage is exclusively the domain of ERISA. That is why COBRA law is considered a supplement to ERISA.

While employers may now discontinue coverage for employees on Workers' Compensation Leave, there are several things that we recommend be considered:

1. You must have a policy in writing which describes the terms and conditions of coverage on a group health plan for employees on Workers' Compensation Leave – including maximum coverage periods and when coverage can be terminated. This can be incorporated into any current Workers' Compensation Leave policy you may have. If you don't have a written policy, you must create one. This does not mean that you need to provide each employee with a copy of the written policy.
2. Once you have developed a policy, you must be consistent in its application.
3. Your policy must be in compliance with any terms and conditions contained in your insurance policy. For example, the policy normally describes who is covered and who is not and often stipulates a cut-off date for employees on leave. Don't promise benefits that are greater than any contained in your contract.
4. Employers with 50 or more employees who are subject to the Federal Family and Medical Leave Act (FMLA) must remember that a Workers' Compensation Leave can also be considered leave under FMLA. As such, FMLA provides for 12 weeks of benefit continuation for each approved leave period.

Employers who are subject to FMLA should implement a policy providing for 12 weeks of benefit continuation for a Workers' Compensation absence. By doing so, an employee, who may have had an FMLA leave of 12 weeks or less in the year prior to a Workers' Compensation Leave, may receive more than the total of 12-weeks of benefit continuation required under FMLA. But implementing a standard cut-off period for all Workers' Compensation absences simplifies administration. As the policy must be in writing, it would become unwieldy if the employer had to include an explanation of benefit continuation periods used in prior leave periods and the subsequent reduction in available benefit continuation periods for subsequent leave periods.

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