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Workers' Comp Tips

As a business owner and employer, do you want to make the most of recent California workers' compensation reforms? Diana B. Henderson, President of The Henderson Group offers these tips on *impacting your workers' compensation bottom line*.

- 1 Timely reporting.** Whether compensable or questionable, timely reporting mitigates total claim cost. Providing adequate and accurate information assists the claims handler in adjusting the claim and providing appropriate benefits.
- 2 Take control.** SB899 provided an alternative mechanism for managing medical utilization and costs through the use of Medical Provider Networks (MPNs). We invite you to consult with us regarding the MPN implementation process. Ensure that you display the requisite informational posters and distribute required notices and pamphlets.
- 3 Return to work.** Incentives are available for providing transitional and permanent return to work opportunities. Additionally, productivity, morale and the overall cost can be positively impacted.
- 4 Stay engaged and connected.** Maintain and insist on high levels of communication with your injured worker and claims handler. Continually monitor and review the status of every open claim. Provide requested information expeditiously.
- 5 Use experts.** If you lack the expertise, do not hesitate to consult with experts at *The Henderson Group* to assist in managing this bottom line expense. It is well worth the investment.

HEALTH BENEFITS

The How-To's of Mental Health Benefits

Earlier this year, Congress extended the protection of mental health benefits under the 1996 Mental Health Parity Act (MHPA) through the end of 2006. MHPA prohibits companies with more than 50 employees from capping mental health care benefits unless they also limit services for other medical or surgical benefits. Here's what you need to know about structuring health benefits to meet current mental health parity regulations.

While MHPA requires health plans to offer similar aggregate lifetime and annual dollar limits for mental health and medical/surgical benefits under a group health plan, companies are not required to provide mental health benefits. Nor are they prohibited from offering mental health patients fewer services and higher out-of-pocket costs. Employers also determine the extent and scope of the company's mental health benefits—including cost sharing, limits on numbers of visits or days of coverage, and requirements about medical necessity. And the law does not apply to benefits for substance abuse or chemical dependency.

Despite the additional cost of mental health benefits, many employers consider the mental health of employees to be crucial to company success. They recognize that mental health problems are common in the workforce and that early intervention and continuing treatment can effectively address such issues. And they understand that overall health care costs may rise when mental health benefits are restricted.

Costs of parity. Parity mandates generally have not been linked to higher insurance costs. A recent study from Yale Medical School found that companies providing equivalent levels of coverage for mental health and general medical care do not face major increases in health care



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Return-to-Work Programs Speed Recovery and Save Money

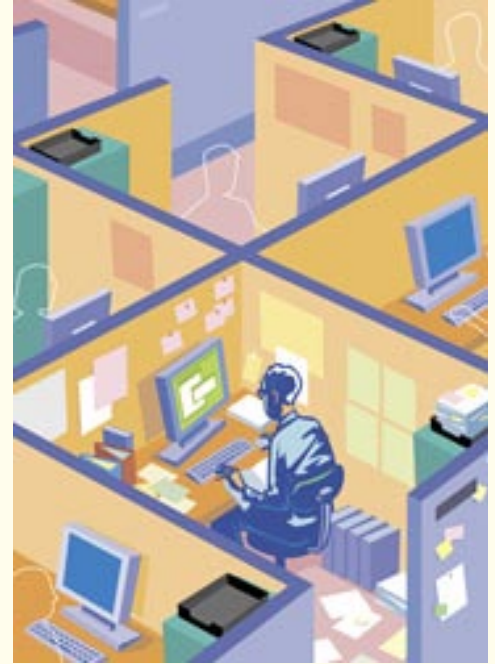
When an employee is injured on the job, the employer can respond in a couple of ways: The employer can allow the employee to remain out of work until fully recovered from the injury or provide a change of duties (restricted, transitional or light – which mean the same thing) that allows the employee to return to work sooner.

Choosing the first option will guarantee lost-time injuries. It will no doubt drive your modification rate higher; it will increase your company's injury-cost history and will directly increase your insurance premium.

In addition to these costs, your indirect costs will increase as well. These include overtime and increased responsibilities for remaining employees; additional costs related to therapy, rehabilitation services and other medical expenses; and an increased likelihood of your at-home injured employee feeling the need to hire an attorney while staying home for as long as possible on your dime.

The importance of communications

If you have a return-to-work program, do your employees and managers know about it? Communicating your program helps ensure its success. Explain to employees and managers that under a return-to-work program, an occupational medicine physician will prescribe limitations as necessary to ensure work and home activities will not compromise the employee's healing process. If employees understand this before being injured, they have fewer adverse emotions, fewer thoughts about the company taking advantage of them, and less likelihood to feel an attorney is necessary.



“Explain to employees and managers that under a return-to-work program, an occupational medicine physician will prescribe limitations...”

Choosing the second option—a return-to-work program—will reduce your direct and indirect costs while also helping your employee experience a faster, more stable recovery. How can a return-to-work program do that?

- Studies have proved that getting an injured employee back to a more normal routine speeds recovery and healing time, reducing costs for rehab and follow-up physician visits.
- Returning to work before the benefit waiting period is up ensures the employee a quicker return to full salary, reducing the risk of lawsuits and disgruntled attitudes.
- An employee returning to work provides less stress for family, along with co-workers and managers who are juggling overtime requirements. This reduces the risk of workplace violence and morale problems.

Supervisors and managers also need to know what is expected of them and how they can contribute to the injured employee's successful return to work. A formal program will also open communication lines with the treating physician(s) so s/he knows that restricted work is available for the employee and s/he can prescribe the right treatment for the quickest recovery possible.

The workers' compensation process is all about good communications – between the employee, the manager, the physician, and the insurance carrier. Sample return-to-work policies are available from various sources. Contact us with any questions or for more information on how this type of program will benefit you and your employees. □

How can a return-to-work program reduce costs?

- ✓ decreases insurance overhead
- ✓ decreases hiring/job-training costs
- ✓ reduces use of nonessential medical treatments
- ✓ reduces lost-time rates and modification rates
- ✓ reduces frequency of lost-time claims
- ✓ reduces red flags to OSHA, reducing potential for audits or inspections
- ✓ reduces litigation costs
- ✓ reduces fraud and abuse by employees
- ✓ maintains production, workflow and quality standards
- ✓ improves morale and self-esteem of employees
- ✓ stabilizes work and production expenses

The Future of Cash Balance Plans

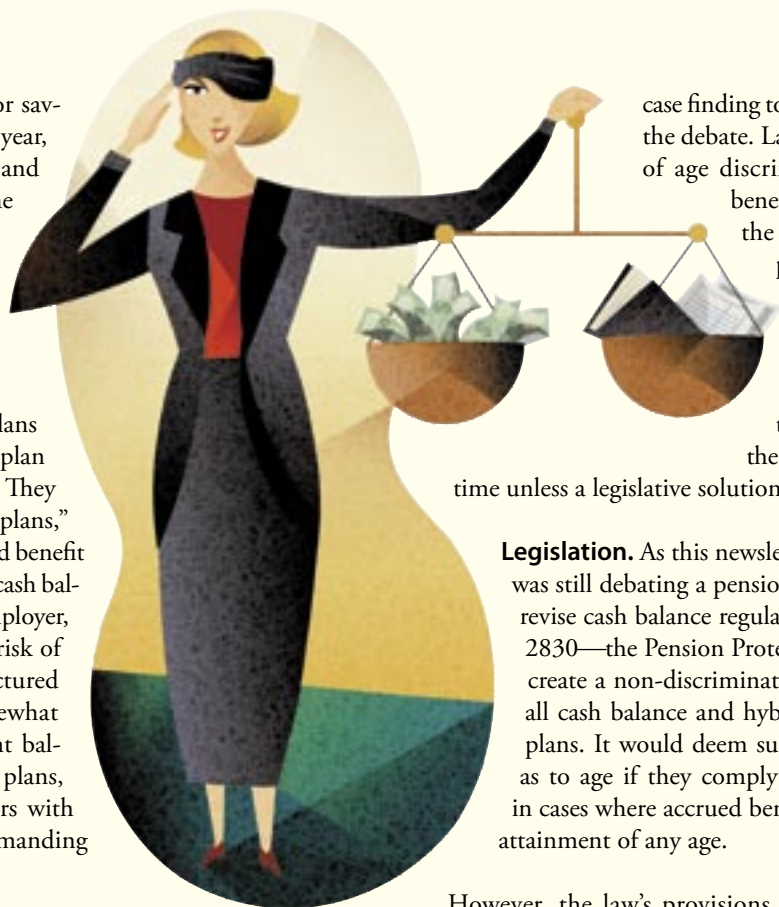
Many call them the last, best hope for saving defined benefit pensions. This year, however, cash balance plans are at a legal and legislative crossroads that could decide the future of employer-provided retirement benefits. Here's a closer look at cash balance plans and recent developments that will affect whether and how companies use them.

Cash balance plans are defined benefit plans that combine the advantages of a 401(k) plan with those of a traditional pension plan. They are part of a group referred to as "hybrid plans," which incorporate elements of both defined benefit and defined contribution plans. Legally, a cash balance plan is a defined benefit plan—the employer, not the employee, assumes the financial risk of achieving a preset benefit. But it's structured like a defined contribution plan—somewhat like a 401(k), it features a stated account balance. Compared with traditional pension plans, cash balance plans can provide employers with more funding flexibility while often demanding lower payouts.

Conversion. While companies may choose to implement a new cash balance plan, most plans have been converted from traditional benefit plans via plan amendment. Federal law places some restrictions on plan changes, including amendments that convert traditional pensions to a cash balance plan formula. Plan amendments cannot reduce benefits that participants have already earned. Employers must provide participants with advance notification—usually 15 days—of plan amendments, particularly if the future benefit earnings rate is significantly reduced. But the company has complete discretion to determine new plan eligibility and whether to allow employees to remain in the old plan formula.

For some employees close to retirement, the cash balance conversion may upset future expectations. In fact, a 2005 Government Accounting Office (GAO) analysis of 133 conversions found that monthly benefits decreased on average by \$59 a month at age 30 and by \$238 a month at age 50. And distributions like that have run afoul of ERISA. As a result, 47 percent of the conversions studied by the GAO grandfathered benefits from the former plan to at least some older workers. Even so, the flood of conversions to cash-balance plans during the 1990s has turned into a trickle. And this change in expectations has led to charges of age discrimination.

Litigation. Most courts have concluded that these cash balance plans—including the plans of PNC, CBS, Southern California Gas and Onan Corporation—do not violate age discrimination rules. But one



case finding to the contrary has dominated the debate. Last year, IBM settled charges of age discrimination that involved its benefit plans in the mid-1990s; the company is committed to paying out \$315 million and will pay \$1.4 billion more if it loses on appeal. Regardless of how the IBM appeal turns out, this issue is likely to remain the subject of litigation for some time unless a legislative solution is found.

Legislation. As this newsletter went to press, Congress was still debating a pension reform bill that likely will revise cash balance regulations. The House bill, H.R. 2830—the Pension Protection Act of 2005—would create a non-discrimination standard that applies to all cash balance and hybrid defined benefit pension plans. It would deem such plans nondiscriminatory as to age if they comply with certain requirements, in cases where accrued benefits are reduced because of attainment of any age.

However, the law's provisions would apply prospectively only—in other words, they would apply only to plans created after the law's implementation, or to conversions made due to mergers, acquisitions or similar transactions. The Senate originally introduced a bill that included comprehensive clarification and also required the retroactive application of safe harbors and mandates in addition to a litigation carve-out.

Many companies oppose hybrid legislation that is prospective only, as such a measure would not protect existing plans and would create a negative inference about their legality. In addition, the special provisions for conversions include benefit mandates and create a bias against conversions that were not done in the same manner. The House recently approved a motion to accept Senate provisions for new mandates governing employers that convert to a hybrid plan, though employers have opposed those provisions.

If unfavorable legislation is signed into law or a major court decision turns out badly for employers, cash balance plans could face a wave of shutdowns this year. If the outcomes are favorable, there may be a rush of conversions from defined benefit to cash balance plans. Ultimately, a key feature of a great retirement program is ensuring employees understand the value of their benefits, whether it's a cash balance plan or traditional pension. For further information about cash balance legislation or setting up a plan for your company, please contact us. □

spending, particularly under a managed care system. Introducing or increasing the level of managed care can significantly limit or even reduce the cost of implementing parity laws, according to the study.

Increased access to mental health services may also result in savings through reduced use of medical services. Certain patients, including people developing serious illnesses, adults with alcoholism and primary care outpatients with somatic problems, may use medical care excessively because of psychological factors. Companies can save by offering appropriate mental health services to patients who tend to overutilize other medical benefits. In some cases, employers could see an appropriate increase in utilization rates, since underserved populations may not have been receiving the mental health care they needed.

Many employers have developed cost-sharing structures to encourage workers to use mental health benefits, including eliminating employee out-of-pocket expenses for initial consultations or Employee Assistance Program (EAP) services. EAPs can offer a wide range of mental health-related services. Some companies have on-site EAPs, providing free counseling in the workplace, while others believe employees are more likely to use an EAP when it is located off-site. Benefits managers often characterize their EAP as a “gateway” to services, rather than the traditional “gatekeeper” that limits access to services. EAPs can often serve as a direct link to the benefit plan’s network of mental health providers.

To improve employee access to mental health care, consider the following best practices in benefit design, plan management, and monitoring and evaluation:

Benefit design. Analyze the characteristics of your company’s workforce. Look at gender, age, type of profession, etc. to identify any special mental health needs unique to your employee populations—then structure your benefits plan accordingly. Offer a wide variety of physical and mental health work-site wellness programs to help your employees balance work and home life.

Consider on-site counseling or psychiatric care, including consultative and administrative services such as case management, patient advocacy and general advice about the company’s benefits plan. Customize a network of mental health specialists based on employee preference and past claims data.

Plan management. Take an active role in directly managing both plans and vendors. Be sure to clearly communicate the company’s approach to mental health benefits to insurers, EAP vendors and providers, who frequently focus only on controlling costs. In addition to managing multiple vendors, employers must integrate data from a variety of vendor database systems that may not be compatible with the company’s system.

Monitoring and evaluation. Evaluate plan options regularly and work to improve inadequacies. Use performance data to assess the relationship between access to services and employee productivity and

health care costs. Establish a mechanism to monitor disability and absenteeism to determine the link between increased mental health spending and decreased employee health problems.

Employee feedback should play a significant role in shaping the benefit design and influencing policies. Assess employee satisfaction to improve areas of poor performance and be willing to change policies based on employee complaints. Solicit employee input through focus groups and direct interviews.

“Increased access to mental health services may also result in savings through reduced use of medical services.”

By offering comprehensive mental health benefits, your company communicates a corporate culture that emphasizes the value of investing in employee wellness. Meeting the mental health needs of your employees produces long-term savings by decreasing health care costs, increasing productivity and reducing absenteeism. So you’ll not only have a healthy workforce, but a healthy bottom line as well. If you would like assistance with your mental health benefits, please call us. □

Under California, two men stole workers’ comp claimants’ identities

to obtain fraudulent payments of about \$260,000 for medical billings. The men were charged with conspiracy, grand theft and other crimes. A doctor listed as the referring physician for most of the claims reported he never ordered the tests. Investigators are trying to determine how the defendants obtained the identities of the workers’ comp claimants. Total fraudulent payouts in this case could reach as high as \$3 million. This case reminds employers to review their electronic security measures and record-retention policies to protect medical records, health and workers’ compensation claim files and other sensitive electronic records from unauthorized access.

Web-based health care options help reduce employer costs

, found a recent survey by the National Business Group and Watson Wyatt. While 58 percent of respondents provide Internet resources that enable workers to compare health care insurance options side by side, those employers that offer additional Web tools were best at controlling health costs, said the study. Among these tools, for example, is an online program that allows employees to model the tax impact of their health care decisions, such as signing up for a flexible spending account.



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