

The Henderson Group

4590 MacArthur Blvd., Suite 500 • Newport Beach, CA 92660
Tel: 949-417-5722 • Fax: 714-963-2024 • www.thehendersongroup.net

This
Just
In...

ADMINISTRATION

Injured Veterans to Become a Comp Issue

California docs defend drug

"repackaging"; insurers and employers aren't buying it. Statistics show repackaged drugs cost California insurance carriers and employers \$300 million over the life of workers' comp claims. Physicians often dispense drugs out of their office to patients who need medications immediately. But in California, physicians have been able to exploit a legal loophole that allows them to charge, in some cases, more than 400 percent of the fee schedule for these repackaged drugs.

The costs have prompted employers and organized labor to band together to end the abuse. Earlier this year, a draft regulation was proposed that would cap fees on repackaged drugs dispensed out of doctors' offices at MediCal levels; legislation is also waiting consideration in the state Senate.

Retirement plan fees will continue to fall through 2006,

according to recent analysis by 401khelpcenter.com. Competitive pressure on funds to reduce management fees, regulatory scrutiny, and financial industry consolidation have contributed to lower retirement plan costs. But don't expect that just because fees are dropping in general that your company will benefit automatically. Employers must engage in negotiations and benchmarking

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The Insurance Information Institute (III), a nonprofit insurance association, noted earlier this year that more than two million military personnel, including National Guards and reservists, will have been deployed in Afghanistan and Iraq by the completion of major operations. Many of them will have been deployed more than once. The III added that most have endured significant physical, emotional and psychological hardships. More than 2,200 have died and well over 16,000 have been injured in Iraq alone.

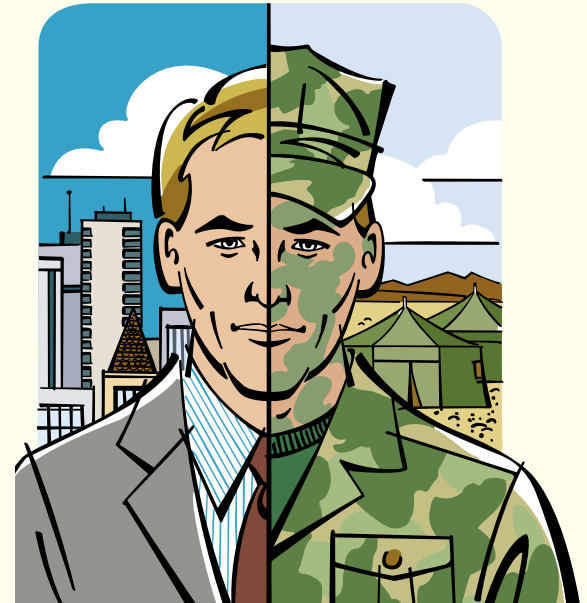
Robert Hartwig, chief economist of the III, said that reintegration of the physically and psychologically impaired workers will likely present unexpected challenges to a generation of employers with no experience in dealing with such large numbers of returning veterans.

One of the issues employers will have to face is the aggravation of existing war injuries. Workers' compensation generally covers workplace injuries that primarily result from injuries originally sustained during military service, according to Hartwig. He also cautioned that employers will need to adhere to the Americans with Disabilities Act (ADA) when injured veterans return to their jobs from conflicts in Iraq and Afghanistan.

Second injury funds MIA

Adding to the challenge, Hartwig said, is the decline in the number of state second injury funds, which pay additional benefits for the aggravation of an employee's prior injury. States reasoned that they no longer needed second injury funds with the enactment of the ADA in 1990. The ADA not only prohibits discrimination against disabled employees but also requires employers to make "reasonable accommodations" for them in the workplace.

For more information on workers' compensation benefits for returning military servicepeople, please contact us. □



Employee Benefits & Workers' Comp News

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COBRA Benefits: What You Need to Know

Today's workforce is more mobile than ever, with multiple job changes the rule rather than the exception. Many employees rely on the Consolidated Omnibus Budget Reconciliation Act of 1985, better known as COBRA, to maintain health benefits during job transitions and other life events. COBRA allows workers and family members who would otherwise lose their benefits to temporarily continue health coverage at group rates.

If you had 20 or more employees in the prior year and offer a group health plan, COBRA applies to your company. (Your employee count must include part-time employees; add part-timers' hours together to determine the number of full-time equivalents.) Here is what you need to know about COBRA's requirements:

Qualified beneficiaries. Eligibility for benefits under COBRA is limited to qualified beneficiaries, i.e., those covered by a group health plan on the day before a qualifying event (see below). Typically, this includes full-time and part-time employees who are plan participants, their spouses and dependents, as well as retirees, unless they are eligible for Medicare. Employers do not have to offer COBRA coverage to any employee who is not yet eligible for group health coverage or who declined to participate in the plan.

Qualifying events. Certain events will trigger the right to coverage under COBRA, including termination of employment (voluntary or involuntary), unless it is for gross misconduct, and reduction in hours worked (e.g., from full-time to part-time). An employee's death, divorce, legal separation or eligibility for Medicare are all considered qualifying events, as is a change in status of a covered dependent or spouse. Being called up for active military duty also triggers eligibility for COBRA coverage when an employer doesn't voluntarily maintain a reservist's health coverage. The type of qualifying event determines who the qualified beneficiaries are and the amount of time that a plan must offer the health coverage to them under COBRA.

Types of coverage. Employers must offer identical health care coverage to COBRA beneficiaries as they do to non-COBRA beneficiaries – usually the same plan that was in place immediately before the qualifying event. Any benefit changes for active employees will also apply to COBRA beneficiaries, who are entitled to the same coverage choices as all other employees, such as during periods of open enrollment.



Length of coverage. COBRA provides for up to 18 months' coverage for qualifying events such as job termination or a reduced work schedule. Certain qualifying events, or a second qualifying event during the initial coverage period, may extend coverage to a maximum of 36 months. Employers may also provide coverage beyond COBRA maximums. Coverage begins on the date that benefits would otherwise have been lost because of a qualifying event. It may end earlier than the maximum period if the beneficiary does not pay premiums on time or if the employer stops offering any group health plan.

Notification and election. Employers must notify covered employees and their spouses of their rights under COBRA when they first join the company's health care plan. Be sure to have a calendar handy to keep track of the various COBRA deadlines: Employers

must inform plan administrators of a qualifying event within 30 days after an employee's death, termination, reduced hours of employment or entitlement to Medicare.

In the case of divorce, legal separation or a dependent's change of status, a qualified beneficiary has 60 days to notify the administrator. The administrator then has two weeks to notify the person entitled to COBRA benefits, who must decide within 60 days whether to elect coverage. Keep in mind that though an employee may choose coverage on behalf of all other qualified beneficiaries, each beneficiary has the right to independently elect COBRA coverage. For example, if an employee has a family member with an illness at the time he is terminated, that person alone can elect coverage.

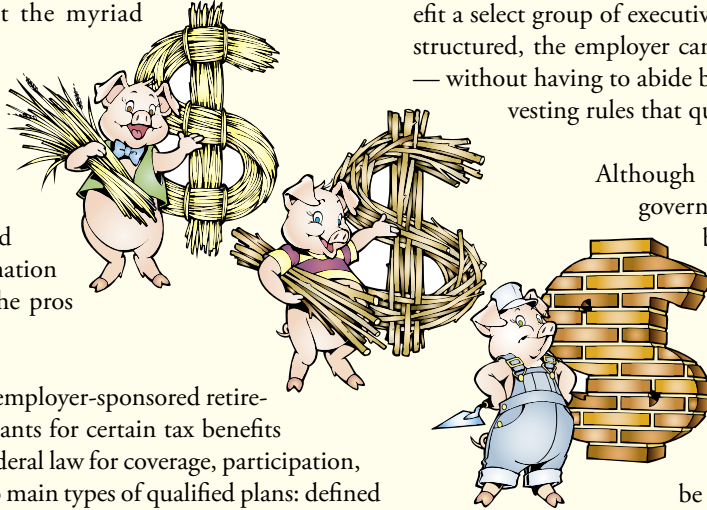
Cost of coverage. In most cases, the employee pays the full cost of the insurance premiums, though some companies subsidize COBRA coverage. In fact, companies may charge up to 102 percent of the premium, and keep the two percent to cover administrative costs. Premiums may be increased if costs to the plan increase but generally must be fixed before each yearly premium cycle. The beneficiary must make the initial premium payment within 45 days after the election date, and employers can terminate COBRA coverage if payments are late. The fact that most insurers require payment in advance for coverage complicates the process, because while companies pay in advance, COBRA insureds get a 30-day grace period from the time the payment is due.

Special rules apply to reservists called up for military service. If military service is for 30 or fewer days, the employee and dependents can continue

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Qualified vs. Non-Qualified Retirement Plans

Choosing a retirement plan for your employees sounds straightforward, but the myriad of options available — not to mention complicated tax rules — leaves many employers uncertain about the best fit for their company. One of the basic decisions employers face is whether to offer qualified or non-qualified retirement plans, or some combination of both. Here's a closer look at the pros and cons of each.



Qualified retirement plans are employer-sponsored retirement plans that “qualify” participants for certain tax benefits by meeting requirements under federal law for coverage, participation, funding and vesting. There are two main types of qualified plans: defined benefit plans, which are funded by company contributions to meet a preset annual retirement payout, and defined contribution plans, such as profit-sharing plans, which give employers flexibility in choosing how much to contribute each year. Plans must cover at least 70 percent of non-highly compensated employees and employers must generally offer them to all full-time employees on the same terms.

Tax advantages

The major attraction of qualified plans is tax breaks. Employers take a current tax deduction for all plan contributions, while employee accounts grow tax-free until the time of distribution. Some plans do not require the employer to make annual contributions. Employer contributions to qualified plans are held in trust until the employee is entitled to receive them, an arrangement that helps assure employees that the money will actually be there when they retire.

Qualified plans, however, have several drawbacks. Any time an employer makes a contribution, it must make contributions on behalf of all participants. Some plans require employers to make annual contributions whether or not the company is profitable. Benefits are not guaranteed in most plans (although federal law protects participants’ rights), and participants face a substantial penalty for early withdrawals.

In recent years, qualified plans have become less attractive for two reasons: regulatory changes keep whittling down the maximum amount of money that employers can contribute to them, and increasingly complex rules are burdening employers with higher administrative costs. This has led to reduced qualified plan benefits for many valuable employees and has limited employers’ ability to adequately compensate these workers. In response, some companies have turned to non-qualified plans to replace the lost benefits.

Non-qualified plans are employer-sponsored plans designed to benefit a select group of executive or key employees. If the plan is properly structured, the employer can include only those employees it chooses — without having to abide by the anti-discrimination, participation or vesting rules that qualified plans must follow.

Although non-qualified plans are subject to fewer government regulations, they receive fewer tax benefits. Any earnings in the plan are taxable to the employer, and taxable to the employee when distributed as benefits. However, the employer can take a tax deduction at the time of distribution. And since non-qualified plan contributions are not held in a separate trust, employees receive no guarantee that benefits will be there when they retire — and any assets set aside for future payouts are subject to claims by employers’ creditors.

Irrevocable trusts

One way to reduce the potential financial risk to non-qualified benefits is by setting up an IRS-approved irrevocable trust into which the employer contributes the plan assets, which are managed and distributed by the trustee. Although these trusts do not protect the assets against creditors’ claims in case of company insolvency, they generally offer protection in the event of a corporate takeover, change in management or other event that could threaten the availability of benefits.

Without a requirement that non-qualified plan assets be held in trust, many companies pay non-qualified benefits out of general corporate assets as they become due. This approach assumes that future growth of the company will cover its benefit obligations. Smaller companies might find this arrangement strains their coffers on payout day and leaves executives wondering about the security of their benefits.

An alternative to the pay-as-you-go approach is to create an asset reserve for future plan obligations by using corporate-owned life insurance (COLI). Typically, the company buys a cash value life insurance policy — either whole life or universal life — on the life of the key employee and names itself as beneficiary. The employer owns the policy and pays all premiums. After the employee retires, the company can use the policy’s cash value to pay the benefit. If the employee dies, the policy pays a tax-free death benefit to the company.

The advantage of funding with COLI is that the cash accumulation inside the policy grows tax-free. However, COLI offers no protection against any creditor’s claims, so it won’t provide an employee total peace of mind.

Ergonomics: Safety by Numbers



A well-designed ergonomic program can reduce musculoskeletal disorders (MSDs)—and your workers' compensation costs—at little cost. Despite this, fewer than one-third of U.S. employers currently have an ergonomics program. The following statistics might convince you that reducing MSDs makes sound financial sense:

- * The National Institute of Occupational Safety and Health (NIOSH) says MSDs cost U.S. employers \$2.1 billion in workers' compensation each year.
- * MSDs cost \$90 million in indirect expenses (hiring, training, overtime, and administrative costs) each year.
- * It costs an average of \$150 annually to modify a job so it will not cause a MSD.

- * Each MSD prevented saves an average of \$22,500 in direct costs alone.
- * An OSHA booklet lists 30 real solutions to ergonomic problems that can be implemented for less than \$100.
- * The General Accounting Office's review of more than 90 case studies indicates that successful ergonomics programs reduce injury rates an average of 80 percent.

How can my company reduce the incidence and cost of MSDs?

The National Institute of Occupational Safety and Health (NIOSH) offers a free publication called "Elements of Ergonomic Programs-A Primer Based on Workplace Evaluations of Musculoskeletal Disorders," Publication No. 97-117. It provides basic information to help employers and workers design effective programs to prevent and evaluate work-related musculoskeletal disorders in the workplace. To order, call NIOSH at 800-35-NIOSH or download it at www.cdc.gov/niosh/97-117pd.html

We can also help you minimize your MSD claims and other workers' compensation exposures—for more information, please call us. □

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coverage at the same cost as before their short service. If military service is longer, you can require the employee and dependents to pay as much as 102 percent of the full premium for coverage. However, military health care should cover these employees and their dependents.

Complying with COBRA can be challenging, but for now it's a necessary part of your company's benefits administration. For assistance with COBRA compliance, please contact us. □

State laws

In California, employers must also heed the provisions of Cal-COBRA, which provides more generous benefits than the federal law. Provisions of Cal-COBRA that differ from the federal law include:

- * It applies to smaller groups—those with 2-19 employees covered on at least 50 percent of the employer's working days during the preceding calendar year, or during the preceding quarter, if the employer was not in business during the preceding calendar year.
- * It applies to indemnity policies, preferred provider organizations (PPOs) and health maintenance organizations (HMOs) only. It does not apply to self-insured plans.
- * It covers church plans that meet the above criteria.
- * It provides 36 months of coverage, vs. 18 months (generally) under the federal plan.
- * It provides an additional 18 months' coverage for those who have exhausted their federal COBRA coverage, for a total extension of not more than 36 months. To be eligible, a beneficiary must reside in California and must have coverage under a master policy issued in California, or the employer must have more than half of its employees in California and have its principal place of business in California.

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A trust can hold the COLI; however, trusts have tax implications for both the employer and the participant.

We can work with your tax professional to help you set up a nonqualified plan that benefits both your company and your highly compensated employees. Please call us for more information. □

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with providers to ensure the lowest plan costs for both participants and sponsors. Urge your provider to separate management fees from servicing and marketing fees in mutual fund expense ratios. □



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