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KAPNICK 
INSURANCE GROUP



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Issues to Trends
in the Benefit
Marketplace

**Health and
Wellness
in the Workplace**

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Not receiving the Kapnick Health
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Email rene.carpenter@kapnick.com

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Waffco Heavy Duty
Towing and Recovery

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Kapnick Corporate Highlights

Kapnick designates a Health Care Reform Task Force



Two of Kapnick's HCR Task Force members
Kathy Wood, left, and Angela Dean

The passing of the *Patient Protection and Affordable Care Act*, more commonly referred to as Health Care Reform (HCR), has raised a myriad of questions and concerns among businesses, especially as to the impact this will have on their employee benefit programs. Kapnick Insurance Group has assembled a "HCR Task Force" to research, disseminate and share information with clients as it relates to the impact the Act and its provisions will have on current and future benefit programs. "We feel an obligation to our clients to keep them informed of the implications of HCR to their benefit programs as things progress," said Kapnick Benefit Division president Steve Peck. "We have among our team of professionals, people who are watching this closely, who understand what is happening, and who can in turn, put the information into terms the average businessperson can understand and use."

The HCR Task Force compiles information on a weekly basis and sends it to clients via email in the form of their "HCR - A Week in Review". These publications, and other relevant documents, are on the Kapnick website at www.kapnick.com, under the "Health Care Reform, Week by Week" button on the homepage. In addition, Kapnick recently invited clients to a series of Benefits Briefing breakfast meetings where members of the Task Force shared their insights regarding the legislation, especially as the different aspects pertain to company benefit programs. Attendees were able to get direct answers to their most pressing questions.

Kapnick Insurance Group also hosted a Health Care Reform Seminar on August 3rd that included breakout sessions covering specific topics including *Grandfathering, Pros & Cons; Preparing for 2011 - the Here and Now; Long Term Strategies - 2010 and beyond* and an "Ask the Expert" Q & A session. If you would like to be added to the mailing list to receive future HCR emails, contact Rene' Carpenter at 888.263.4656, x1154 or rene.carpenter@kapnick.com.



Health Care Reform

“Pay or Play” Rules

The Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act (together, PPACA), brings many changes to employers and health plans. One such change essentially amounts to a requirement for some employers to offer health care coverage to employees.

PPACA does not explicitly mandate an employer to offer employees acceptable health insurance. However, beginning in 2014, certain employers with at least 50 full-time equivalent employees will face penalties if one or more of their full-time employees obtains a premium credit through an exchange. As described in greater detail below, an individual may be eligible for a premium credit either because the employer does not offer coverage or the employer offers coverage that is either not “affordable” or does not provide “minimum value.”

SUMMARY OF THE “PAY OR PLAY” RULES

Application Only to “Large Employers”

Only a large employer may be subject to penalties regarding employer-sponsored health insurance. A “large employer” is an employer with more than 50 full-time equivalent employees during the preceding calendar year.

In order to determine whether an employer is a large employer, both full-time and part-time employees are included in the calculation. Full-time employees are those working 30 or more hours per week. The number of full-time employees excludes full-time seasonal employees who work for less than 120 days during the year. The hours worked by part-time employees (i.e., those working less than 30 hours per week) are included in the calculation of a large employer, on a monthly basis, by taking their total number of monthly hours worked divided by 120.

Example: A company has 35 full-time employees (30+ hours). In addition, the company has 20 part-time employees who all work 24 hours per week (96 hours per month). These part-time employees’ hours would be treated as equivalent to 16

full-time employees, based on the following calculation:

$$20 \text{ employees} \times 96 \text{ hours}/120 = 1920/120 = 16$$

This company would be considered a large employer, based on a total full-time equivalent count of 51. That is, 35 full-time employees plus 16 full-time equivalents based on part-time hours.

Potential Tax Penalties in 2014 on Large Employers

Regardless of whether or not a large employer offers coverage, it will be potentially liable for a penalty beginning in 2014 only if at least one of its full-time employees obtains coverage through an exchange and receives a premium credit. A full-time employee includes only those individuals working 30 hours per week or more.

Part-time workers are not included in penalty calculations, even though they are included in the determination of whether an employer is a large employer. An employer will not pay a penalty for any part-time worker, even if that part-time worker receives a premium credit.

Conversely, seasonal workers are not included in the determination of large employer. However, if an employer is determined to be a large employer, without counting its seasonal workers, it could still potentially face a penalty for each month that a full-time seasonal worker received a premium credit for exchange coverage. For more detailed information about this topic please contact your Kapnick Client Executive.

See the flowchart below for a quick overview of penalty Q&As.





What Can Employers Expect to See in 2011?

According to “Behind the Number: Health Care Cost Trends for 2011” provided by the PricewaterhouseCoopers Health Research Institute (HRI), private insurers are anticipating an average increase in medical costs by 9 percent. This compares to increases of 9.5 in the prior year.

For 2011, the HRI has identified three primary “deflators” that will help hold down the medical trend:

1. Employers Moving Network Benefits to Pre-Managed Care Benefit Design

Employers are looking at increasing deductibles and replacing co-pays with coinsurance. By requiring workers to spend more out-of-pocket at the point of care, employers believe they’re reining in utilization of services and drugs.

2. Generics Continue to Eat into Brand-Name Drug Market Share

Generics, which account for about 80% of all prescriptions, continue to erode the market share of brand name drugs, and remain a drag on medical cost trends. Also about \$26 Million in drugs are expected to go off patent in 2011, including Lipitor.

3. COBRA Costs Expected to Return to Normal

A combination of declining unemployment and expiration of the COBRA subsidies is expected to lead to reduced enrollment in 2011.

The HRI has also identified three primary “inflators” that will contribute to the increased costs of medical trend:

1. Cost Shifting From Medicare Expected to Increase

Hospitals are seeing their rates cut for the first time after seven years of increases that outpaced inflation.



Some hospitals that benefited from higher payments in 2008 and 2009 may be able to tap reserves, but more are likely to renegotiate terms and shift more costs to commercial players during negotiations.

2. Provider Consolidation Increasing

The number of physicians involved in mergers or acquisitions doubled in 2009 and increased again in 2010. This will increase the bargaining power of the providers. Payment changes, embedded in health care reform, also encourage models that align financial incentives among providers.

3. Hospitals to Invest Billions into Certified Electronic Health Record Systems

Spurred by stimulus funding in 2011 and Medicare penalties that begin in 2015, hospital systems are planning to implement EHRS in the near future. They are expecting to see increased spending toward technology, IT staff, training and process redesign.

For more information contact John Watson, Group Marketing Manager - john.watson@kapnick.com

NOTE: The report put out in 2009 by PwC correctly forecasted many of the trends for 2010. Key trends that both helped increase and mitigate medical costs are identified and explained in greater detail in the full report. Go to www.kapnick.com in the Health Care Reform section to read the full report.



Health and Wellness

Workplace Fatigue

You have a health management program to help your employees be healthier and more productive, and to lower your health care costs, but you may be missing an important aspect of your employees' health: fatigue. Fatigue in the workplace is a serious problem – one survey found that 38% of employees surveyed reported feeling fatigued sometime in their past two weeks at work. Fatigued individuals are less productive, less focused, have more medical problems, are absent more often and are more likely to be involved in a job-related safety incident. Luckily, there are easy and cost-effective ways to incorporate fatigue management into your health management program to help alleviate this problem among your employees.

Start with Your Health Risk Assessment

Include questions related to sleep habits and fatigue on a Needs & Interest Survey. Or, issue a separate sleep disorder screening survey to employees. This can help you identify how many employees show signs or symptoms of fatigue, and also can separate out the percentage who may have a more severe sleep disorder such as sleep apnea or insomnia.

Tailor Programs to Employee Needs

Based on the results of the Needs & Interest Survey, implement programs to address the problems you discovered. If several of your employees have sleep disorders, consider offering counseling or referrals for treatment. You should offer employee educational materials to address the general issue of fatigue, including why getting adequate sleep is so important and tips for getting better quality sleep. Kapnick Insurance Group can provide employee education materials to help you get started. Look into sleep tracker websites or tools that would allow employees to record their daily sleep amount and corresponding mood.



Also encourage employees who struggle with fatigue to eat nutritiously, exercise regularly, and limit alcohol, tobacco and caffeine – all of which can contribute to a better night's sleep.

Make Changes in the Workplace

If your employees are experiencing fatigue in the workplace, there are targeted changes you can make to help ease that problem. Try to make your workplace as conducive to alertness as possible, including proper lighting, quiet break areas for employees to rest or re-charge, and healthy food options. Ask employees what times of the day they are most tired, and think of ways to address those times (a short break, a healthy snack option, etc.). This is especially important for employees who work in safety-sensitive jobs, where fatigue is truly a hazard. Another possibility to consider is allowing employees to nap briefly during their break. Though this may seem inappropriate for work, research has shown that a 15 to 20 minute nap can provide a tremendous boost for a tired individual.

Taking even small actions is an important first step in addressing fatigue in your workplace. Think of fatigue management as just another component of your health management program. Helping employees get better sleep each night and stay energized throughout the day will improve their health, productivity and morale – and improve your bottom line!

For more information contact Sarah Szul, Health Management Coordinator - sarah.szul@kapnick.com



Warning Signs of Workplace Violence

Workplace violence is a major concern for every organization, but it can be recognized and prevented because violence rarely occurs without warning. If employers and employees learn to recognize the signs of potential workplace violence they can take proactive measures to avoid this problem.

“Red flag” behaviors include the following: changes in mood, personal hardships such as divorce or domestic violence, mental health issues such as depression or anxiety, bad behavior patterns such as lying or a negative attitude, verbal threats, and a past history of violent behavior.

Below are steps your organization can take to reduce the risk of workplace violence:

- Implement a mandatory training seminar to educate current and new employees about workplace violence.
- Encourage a confidential “open door” policy that will permit employees to report to a designated person if a co-worker is acting in a way that suggests potential violence and assure the employee that his or her concerns will be taken seriously and thoroughly investigated.
- Establish a “zero tolerance” policy for workplace violence. During training, emphasize the employees’ responsibility to report inappropriate behavior to their supervisors.
- If necessary, management should hire a consultant to assess the potential for violence in the workplace and subsequently implement changes in organization policies and procedures to reduce workplace violence.
- Ask the employees for suggestions on ways to reduce workplace violence.



- Regularly distribute informational literature and posters to help employees keep on top of the latest issues and policies regarding the organization’s policy on workplace violence

Prevent workplace violence before it happens or contain the problem as soon as possible. Organizations can ensure a safe working environment by educating their employees to recognize and report the warning signs of workplace violence and by having a system in place to deal with any issue that poses a threat to employee safety.

Identifying Your Risk

Workplace violence can include actions or words that endanger or harm you, or result in other workers believing they may be in danger, including:

- Verbal or physical harassment
- Verbal or physical threats
- Assaults or other violence
- Any other behavior that causes you to feel unsafe, like bullying or sexual harassment

For more information on risk services contact
Amy DeKeyser - Risk Services Coordinator
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Stock Market and Fiduciary Liability Risk

If you are a trustee or fiduciary for your organization's retirement savings program, including a 401(k) or 403(b) plan, you already know that life isn't getting any simpler. The Employee Retirement Income Security Act (ERISA) imposes significant responsibilities on anyone serving as a trustee or fiduciary for these plans. Lawsuits against plan fiduciaries have been on the upswing, and some fiduciaries have been found personally liable for plan losses under ERISA. This is especially important to remember at a time when the stock market is in turmoil once again, and employees may be checking their account balances almost daily.

Fiduciary liability risk for plan trustees has expanded steadily over the past couple of decades through a series of court decisions interpreting ERISA. In spite of the best precautions, plan sponsors are always vulnerable to allegations of "wrongful acts" under ERISA and risk incurring, at minimum, the cost of defending themselves. Fiduciary liability insurance is designed to protect against this risk.

As a matter of due diligence, plan fiduciaries should work with their investment advisors to periodically review the status of all investment vehicles in their plan, including the rating of all mutual funds. The review process should be documented, even if no changes are warranted.

Employers who automatically enroll their employees in 401(k) or 403(b) defined-contribution retirement plans have other issues. The Labor Department's 2007 final regulations on "qualified default investment choices" under the Pension Protection Act of 2006 can be useful. Section 404(c)(5) of the act provides that, in situations where participants have an opportunity to direct their investments but fail to do so,

fiduciaries will be entitled to fiduciary protection if those participants are invested in a qualified default investment alternative. The qualified default investment choices are: "life-cycle" funds, in which the asset mix is adjusted to reflect the number of years until the employee's expected retirement; balanced stock/bond funds; and professionally managed accounts, a diversified portfolio managed by an outside advisor. By sticking to the qualified defaults for employees who do not direct their own investments, employers now are protected from fiduciary liability.

That doesn't mean you won't be sued. The cost for Fiduciary Liability insurance is usually quite reasonable, and can be paid for by the plan. Cost is highly dependent upon the size of your retirement plan, your claim history, and your plan's investment lineup; a plan offering company stock, for example, will likely be deemed a higher risk than one that does not.

As a bonus, fiduciary liability policies typically cover liabilities related to all kinds of employee benefits programs, not just retirement plans. They can, for example, cover health and welfare plans and nonqualified executive-compensation plans. Just be sure to disclose in your application to the underwriter which plans you offer, and want to have covered.

For more information on P&C issues, contact Phil Morley, Senior Vice President - phil.morley@kapnick.com.

To access and read additional articles focusing on P&C topics including:

- Insuring Against Employee Dishonesty
- Unexpected Privacy Threats
- Floods and the NFIP

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Client Corner

Simplifying Insurance for Waffco Heavy Duty Towing and Recovery

Waffco Heavy Duty Towing and Recovery was opened in Lake Station, Indiana in May of 1972 by Roy and Sarah Farthing. With the passing of Roy in January of 1995, Kevin Farthing stepped up to the plate without a hitch and followed directly in his father's footsteps. With a crew of 10 drivers and 3 office workers, he has really shown the people in the towing network what can be done with the right people and the right equipment. After many years on the road they have developed an understanding of trucking, towing and the operations of transportation. Waffco believes every trucker and his company needs and deserves the best service for their monies being spent.



In addition to light-to-heavy duty towing and recovery capabilities, Waffco is equipped to handle air cushion recoveries. They also have a variety of fork

lifts, loaders, and even a mobile full-size loading dock. Waffco will quote by the hour, the mile or the pound. Call Veronica for your customized quote: 800.962.9112. To learn more visit www.waffco.net.



Waffco Heavy Duty Towing and Recovery is located at 2350 Pike Street in Lake Station, Indiana

"We have been with Kapnick now for 5 years, Mark Arbaugh and Wendy Williams do a great job for me. Mark's expertise in towing/recovery/garage keepers & liability insurance is awesome. Wendy is always available and follows through immediately regardless of what is needed. Insurance is a big expense today, AND towing/recovery insurance is complicated. Kapnick makes it very simple and easy to understand. AND the rates we have are the lowest around.

Kevin Farthing, Owner