Employee Benefits Report

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"Skinny Plans"—Good Idea or Not?

So-called skinny plans could give larger employers a way to minimize shared responsibility penalties under the Affordable Care Act.

Beginning in 2015, the Patient Protection and Affordable Care Act (ACA) will require all employers with 50 or more full-time equivalent (FTE) employees to offer their full-time employees coverage that is affordable and meets a minimum value standard. Employers that fail to meet this requirement could become liable for "shared responsibility" payments.

An Important Oversight?

The Affordable Care Act requires all health plans, unless they are grandfathered, to cover certain preventive care services with no out-of-pocket expense to insureds, even if they haven't met their annual deductible. Health plans created or bought before March 23, 2010 are grandfathered; other plans must provide free coverage of certain preventive services, such blood pressure and cholesterol tests, immunizations, preventive services for women, and more.

The Affordable Care Act also requires all health plans offered in the individual and small group markets, both inside and outside of the health insurance exchanges, to offer a comprehensive package of items and services, known as essential health benefits. The law prohibits plans from placing annual dollar limits on these essential health benefits for plan years starting January 1, 2014. The essential health benefits provision—arguably the most costly portion of the law—does not apply to large group health plans.

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Owners of life insurance have a more positive view of their lives and futures than non-owners, found a recent survey by New York Life. For example, 42 percent of life insurance owners said they were "very happy" with their life; 32 percent of non-owners said the same. Owners were much more likely to rate their quality of life as better than the average American's—64 percent vs. 51 percent. More owners than non-owners—51 percent vs. 43 percent—also rated their quality of life today better than it was five years ago. And life insurance owners even rate themselves higher on the scale of being "on track in terms of living life as a good person" (43 percent vs. 37 percent).

We're not saying that offering life insurance to your employees

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This creates a loophole for large employers, generally those with 101 or more employees. (Until 2016, some states define "large groups" as 51 or more employees.) Although large group plans must cover preventive care services with no copayment, they do not have to cover "essential health benefits."

The Skinny Plan Cost/ Benefit Calculation

Skinny plans designed to meet ACA requirements for large employers would cover the ACA-required preventive services. To keep premiums low, however, they would not cover the "essential health benefits," or would place a very low limit on those benefits, such as $100 per hospitalization. Some insurers are developing skinny plans that cost as little as $100 per month per employee—about one-tenth of the average cost of group major medical coverage in 2013 (based on an Aon Hewitt projection in the fall of 2012).

Although skinny plans would meet the ACA's affordability standard—because they don't cover much—they would not meet the minimum value standard. A health plan meets this standard if it's designed to pay at least 60 percent of the total cost of medical services for a standard population.

Some large employers have done the math and have figured that it will cost them less to offer inexpensive coverage that doesn't meet minimum value requirements, plus a shared responsibility payment, than to offer comprehensive health coverage to their employees.

This works because the amount of the employer shared responsibility payment depends partly on whether the employer offers insurance.

- If you **don't** offer insurance, the annual payment equals $2,000 **for every** full-time employee (excluding the first 30 employees).
- If you **do** offer insurance, but the insurance doesn't meet the minimum value requirements, the annual payment is $3,000 per full-time employee **who qualifies for subsidized coverage** in the health insurance exchange.

Shared responsibility payments will apply to employers only if at least one of their employees applies for coverage in the health insurance exchanges created by the ACA and qualifies for premium subsidies.

To see how this works, let's consider three companies, all with 101 full-time employees.

Company A offers comprehensive health benefits to its employees with a high-deductible health plan. It pays $5,000 of the $6,000 annual premium for employee-only coverage. Premiums total $505,000. Company A can deduct these premiums as a business expense; it also does not have to pay its share of employment taxes (Social Security, Medicare and Federal Unemployment) on premiums. Tax savings equal approximately 35 percent. Net cost: $328,250 (approximately).

Company B offers no health insurance. Five employees of Company B go to the health insurance exchange to buy coverage. One qualifies for subsidized premiums because his low income qualifies him for subsidies. Company B's shared responsibility payment would equal $2,000 per full-time employee, minus the first 30, for a total annual penalty of $142,000. Company B cannot deduct the amount of this payment from taxes. Net cost: $142,000.

Company C offers a skinny plan to its employees, which costs $100 per month. Two employees of Company C want more comprehensive health insurance, so they go to the health insurance exchange and qualify for subsidized premiums. Company C's total annual shared responsibility payment would equal $3,000 x 2 employees, or $6,000 (nondeductible). It would also pay $121,200 in premiums for the skinny plan (101 employees x $1,200 annually). Shared responsibility payment plus premiums equal $127,200, minus approximately 35 percent for premium-related tax savings. Net cost: $83,000 (approximately).

will make them happier and better people. Perhaps the type of people who buy life insurance coverage feel they have more to live for and more to protect. Still, life insurance remains the second most popular insured benefit, after health insurance.

Group life insurance costs relatively little, yet can provide valuable peace of mind. Employers can offer it on an employer-paid or voluntary basis. For more information, please contact us.

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The Skinny on Skinny Plans

Obama administration officials have said that skinny plans would qualify as health insurance under the ACA. Ironically, skinny plans designed to minimize penalties under the ACA will resemble limited-benefit health insurance plans, sometimes called "mini-med" plans. The ACA was supposed to end mini-med plans in 2014 and provide affordable, high-quality coverage options to all Americans by phasing out limits on a plan's annual coverage of "essential health benefits" such as hospital, physician and pharmacy benefits.

Employers can combine skinny plans with other health plans to provide comprehensive coverage for their employees and meet minimum value requirements. Does it make sense to have only a skinny plan and pay any employer shared responsibility payments? This might make sense for certain low-wage, high-turnover businesses in areas with high unemployment. But if you want to retain employees, remember that health benefits rank near the very top of the list of what employees value most in their jobs, along with salary, scheduling flexibility and opportunities for growth.

For more information on skinny plans and other health plans, please contact us.

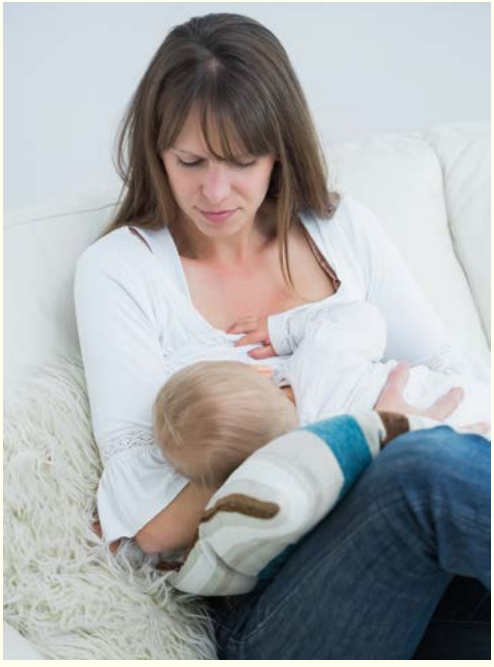
Nursing Mothers Need Breaks

A little-noticed section of the Affordable Care Act (ACA) requires employers to give nursing mothers "reasonable" break time to express breast milk for their nursing children. Depending on the age of the child, this could mean two to three 15-20 minute breaks during an eight-hour shift.

The break time requirement became effective on March 23, 2010 when the Affordable Care Act was signed into law. It requires employers to provide nursing employees a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which the employee can use to express breast milk. Employers do not have to provide a permanent, dedicated space; if you have no nursing mothers as employees, you do not have to comply.

The break requirement applies to all employers subject to the Fair Labor Standards Act (FLSA), regardless of size. The FLSA generally covers any enterprise with annual gross volume of sales of $500,000 or more, along with hospitals, schools, and public agencies. However, employers with fewer than 50 employees are not subject to the FLSA break time requirement if the employer can demonstrate that compliance with the provision would impose an undue hardship.

Although the ACA does not specify penalties for noncompliance, the Department of Labor could seek injunctive relief against a noncompliant employer in federal district



court. If an employer treats employees taking breaks to express breast milk differently than those who take breaks for other personal reasons, employees discriminated against could file a sex discrimination claim under Title VII of the Civil Rights Act of 1964.

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Compliance Specifics

Employers can comply with the lactation break requirement by taking just two simple steps:

1. **Providing privacy for nursing mothers.** If women do not work in a private office, a small, private space (as small as 4' x 5') can be set up for a lactation room. Many companies also provide a hospital-grade electric breast pump that makes pumping quicker and more efficient. Employees should never be asked to express milk or breastfeed in a restroom.
2. **Offering flexible breaks.** Milk expression sessions usually take around 15 minutes, plus time to get to and from the lactation room, and are needed about every three hours. Breastfeeding employees typically need no more than an hour per work day to express milk, which can easily be divided between usual paid breaks and the meal period.

The FLSA does not require employers to compensate nursing mothers for breaks taken for the purpose of expressing milk. However, when employers already provide compensated breaks, they must compensate employees who use break time to express milk in the same way that they compensate other employees for break time.

The benefits of breastfeeding—for mother, baby and employer—might make employers want to step up their program by:

3. **Educating employees.** The ACA requires all health insurance plans, except for grandfathered plans, to provide breastfeeding counseling for pregnant and nursing women. If your plan provides these benefits, make sure pregnant employees and new mothers know about them.
4. **Providing breast pumps.** Your employee health plan must cover the cost of a breast pump for new mothers, whether a rental or new one. However, employers might want to provide a breast pump for nursing mothers to use on-site—a medical-grade automatic breast pump is heavy and can be difficult to transport, but it works faster and more effectively than smaller electric or manual pumps.
5. **Developing policies and practices that enable women to successfully return to work and breastfeed.** The American Academy of Pediatrics recommends exclusive breastfeeding for six months, followed by continued breastfeeding for at least 12 months as complementary foods are introduced. But mothers who work outside the home are likely to cut short breastfeeding. Today, one-third of working mothers return to work within three months after birth, and two-thirds return within six months. What employers do during this time can greatly impact breastfeeding rates—and maternal/child health.

Breastfeeding means lower medical costs and health insurance claims for breastfeeding employees and their infants (up to three times less for breastfeeding employees). A lactation support program can also reduce turnover rates, reports the Maternal and Child Health Bureau of the U.S. Department of Health and Human Services. Most (86-92 percent) breastfeeding employees return to work after childbirth when their employer provides a lactation support program, compared to the national average of 59 percent. Breastfeeding can also result in lower absenteeism rates (up to half the number of one-day absences) among mothers in the workforce.

The Maternal and Child Health Bureau offers an excellent reference for employers called "The Business Case for Breastfeeding." Whether you want to just meet minimum lactation break requirements or go all-out in creating a lactation support program, the booklet will provide guidelines and suggestions for additional resources. You can find it at www.womenshealth.gov/breastfeeding/government-in-action/business-case.html.

For more information on complying with the various provisions of the Affordable Care Act, please contact us.

Disability: The Overlooked Financial Risk

An aging workforce means more disabilities. A survey recently released by the Disability Management Employer Coalition and Cornell University found the disability prevalence rate close to 10 percent for workers age 60 or older, compared with a rate of less than 5 percent for workers under 40 years old.

Why Long-Term Disability Insurance?

A disability can affect anyone, at any time. By age 45, people have a 50 percent chance of having at least one disability that lasts 90 days or more. Since most people don't have the savings necessary to handle their regular expenses without a regular paycheck, a disability that prevents an employee from working can have severe financial effects.

The U.S. Census Bureau also found a link between having a disability and poverty. The poverty rate for people 25 to 64 with no disability was 8 percent, compared with 11 percent for those with a non-severe disability and 26 percent for people with a severe disability.

Many employers provide sick leave and/or short-term disability benefits. Short-term disability insurance generally provides benefits for a maximum of six months. Employers can coordinate their group LTD plan to begin paying benefits after short-term disability benefits end. LTD policies typically begin paying benefits when a disability lasts longer than the specified "elimination period." For most group policies, the elimination period is somewhere between 90 and 365 days.

The typical group long-term disability policy will pay between 40-66 percent of an individual's pretax salary, not including commissions and bonuses, when he or she is unable to work due to a covered disability. LTD policies replace only a portion of lost income to give disabled individuals some incentive to return to gainful employment after a disability. And although they won't replace all income lost due to disability, LTD can mean the difference between maintaining a reasonable lifestyle and living in poverty after a disability.

Voluntary or Employer-Paid LTD?

Interest in group disability insurance increased in 2012 with the easing of the economic recession. New sales premiums grew 8 percent, making the total in-force group LTD premium nearly $9 billion.

Usually, group plans have very streamlined or no underwriting requirements so employees do not have to answer a lot of health questions. Your less-healthy employees will find it easier to obtain coverage through the group market than through individual policies. In addition, group coverage usually costs less than an individual policy.

While employee-paid disability coverage has the advantage of providing tax-free benefits (if the product was purchased with after-tax dollars), employees who drop coverage when they leave will never see that benefit. Further, employers are better equipped

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to keep paying premiums while the employee is disabled than the employee is.

Employers can provide this valuable benefit at very little cost. Premiums for group LTD coverage cost only $277 per person, per year according to the 2012 "U.S. Group Disability and Group Term Life Market Survey," by GenRe. When compared to other benefits, LTD is very affordable.

For more information on group LTD coverage, please contact us. ■

What to Look for in a Disability Policy

More than cost, a policy's terms affect the quality of your coverage. Here are some things to look for in a short-term or long-term disability policy.

Definition of Disability: A disability policy typically has one of these definitions of disability: "own occupation," "modified own occupation" and "any occupation." An "own occupation" policy pays benefits when the insured cannot perform the "material and substantial duties" of his/her regular occupation due to disability. A pure "own occupation" policy applies this definition throughout the life of the policy, while a "modified own occupation" policy applies it for a limited time, such as five years. After that point, the policy reverts to the "any occupation" definition.

"Any occupation" policies define a disability as being unable to perform the duties of "any other occupation" or any "gainful occupation" for which the insured is reasonably suited by experience and education. "Own occupation" policies provide coverage in more situations; however, they cost more. You might want own occupation coverage for a key person who has highly specialized skills, or skills that require high levels of hand-eye or physical coordination. For other employees, however, an "any occupation" policy might suffice.

Extent of Disability: Individuals can experience different degrees of disability. Will your policy pay if the insured is partially disabled? Some policies pay only for total disability, while others cover partial disability only if it follows a period of total disability from the same cause. On the other hand, some policies presume certain conditions—such as losing sight, speech, hearing or use of a limb—are total disabilities and will pay total disability benefits, even if the insured can perform some or all of his/her regular duties.

Length of Coverage: The policy term determines how long the policy will pay benefits if the insured remains disabled. Most common terms are one year, two years, five years or to retirement age. Better policies pay benefits until retirement age. ■

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