HEFFERNAN INSURANCE BROKERS
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News You Can Use

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AFFORDABLE CARE ACT

Relief: Employer Mandate Delayed for One Year

EMPLOYERS NATIONWIDE got some reprieve on July 2 when the Obama Administration announced that it would delay until 2015 the requirement that "large" employers provide health coverage for their workers, or face a penalty.

The administration made the decision after receiving numerous complaints from employers that the Affordable Care Act reporting requirements were too complicated and that it would be difficult and costly for businesses to comply before the start of 2014.

The good news comes after the administration already announced that it would delay insurance offerings to small businesses via state- and federally run health insurance exchanges.

The latest announcement, made by the Internal Revenue Service, has also cast doubt on whether the rest of the law, which requires almost all individuals to secure coverage, can also be implemented on time for a Jan. 1, 2014 start-up.

Many larger employers have complained about the significant amount of administrative resources they have poured into updating technology for reporting purposes and for starting to offer coverage for employees without any idea of what coverage will cost.

Businesses with more than 50 full-time employees (or full-time equivalents) would have paid a fee of $2,000 per uninsured employee, after the first 30 employees, starting in 2014.

The announcement came a month after the independent Government Accounting Office cast doubt on whether the government-run health insurance exchanges could be up and running to start

See 'Comply' on page 2

HEFFERNAN BENEFIT ADVISORS

Visit Our New Health Care Reform Website!

HEFFERNAN BENEFITS Advisory Services is excited to announce it has launched a robust new website dedicated to providing a wide array of information and decision tools related to Health Care Reform (HCR).

The site is designed to help you stay on top of rapidly approaching changes, program details and best practices resulting from the historic shift in the nation's health insurance system.

The site is a one-stop shop for all things relating to HCR. You can find:

- Information on upcoming HCR webinars.
- Our ERISA attorney's monthly blog on latest developments affecting you.
- The HeffConnect benefits administration tool to help our clients remain in compliance and provide easy report-out capabilities for the governmental regulators.



www.healthcarereform-updates.com

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WORKERS' COMPENSATION

Suspect Claims Fraud? Find the Truth on Social Media

THE USE of video cameras to capture malingering by workers' compensation claimants may soon be old school, as more insurance company investigators are rooting through social networks to detect fraud.

It is just not Facebook, Twitter and YouTube they are scouring, but a number of new sites that include photo-sharing and new sites like Google-plus. The technology continues to evolve and expand, in many ways making it easier for investigators to positively identify claimants and determine whether their online lives comport with the claims they have filed.

Some cases that were made easy for investigators to pursue and have claims nullified include:

- A Los Angeles-area warehouse worker claimed his back was too injured to work, and then noted that he'd bowled a perfect game on his Facebook page.
- A judo instructor filed for total and permanent injury, and later posted the dates he was available for class instruction.
- A bronco-riding champion filed a claim, and soon after invited his online buddies to attend his upcoming competition.

Mostly insurance investigators are looking to identify false injury claims when going through social networking sites, but they are also looking for claimants who may have some work on the side, even though they've told their current employer and insurance company they have no other source of income while on the dole for temporary disability payments. If they are found to have lied about this, it can lead to the insurer terminating their benefits.

Social networking sites especially make investigations easier when claimants are being paid under the table and no official record of employment exists.

That is what happened to an injured worker in Florida who signed statements that he had no outside income. A quick check of his social media sites by investigators found numerous postings about his successful side business at local flea markets, where he sold homemade beef jerky.

As a result of new technology called "geo-tagging," which gives the place, time and date of videos and photos, investigators can also determine if a compromising photo or video was taken before or after the injury took place. These days, date and location data are embedded into almost all online media, including photo-sharing sites and Facebook.

In an effort to thwart investigators, workers' comp applicant attorneys are telling their clients to take down potentially incriminating postings immediately upon filing claims and refrain from making future posts. Many a case has been vaporized by claimants posting photos of frolicking while being paid indemnity benefits for being temporarily disabled.

As part of this trend, insurers are using the latest data and text-mining tools to gather information on claimants which a few years ago would have been cost prohibitive or virtually impossible to obtain. Technology vendors are building custom "deep web portals" for insurers who want to stay on the cutting edge.

Not all insurers and employers are using these new tools to reduce their losses to fraud. But those that do — and do it well — are finding that the cost of investigations and overall claims cost are reduced. That is because bogus claims can be identified earlier and the payment stream cut off faster.

You as an employer should make sure that your designated risk manager can quickly learn the ropes about the rapidly evolving nature of social media, and legal ramifications, in order to combat workers' comp fraud. ❖

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IRS Wanted to Give Employers More Time to Comply

enrolling individuals by Oct. 1 for 2014 coverage.

While making the announcement on the delay, the IRS said exchanges for individuals will open on Oct. 1 as planned.

Valerie Jarrett, a senior adviser to President Obama, wrote in a White House blog: "As we make these changes, we believe we need to give employers more time to comply with the new rules. Since employer responsibility payments can only be assessed based on this new reporting, payments won't be collected for 2014."

And Mark Mazur, assistant Treasury secretary for tax policy, wrote in an IRS blog: "We have heard concerns about the complexity of the requirements and the need for more time to implement them effectively."

The delay should give the IRS more time to iron out ways to simplify reporting requirements and give businesses time to get used to the reporting system.

The IRS urges employers to voluntarily report their data for the 2014 year, so that they will understand how it works for 2015.

As your broker, we urge you to consult with us to determine what this means for your company and to find out how you can start planning now for the ACA era. ❖

WELLNESS PLANS

New Rules To Reduce Discrimination, Up Max Rewards

THE IRS, Department of Labor and Department of Health and Human Services have issued final regulations for employer wellness programs, mostly dealing with maximum permissible rewards and discrimination issues.

The new rules were released at the end of May after proposed regulations, issued in November 2012, garnered some 5,000 comments from stakeholders. The rules take effect for plan years beginning on after Jan. 1, 2014 and apply to all health plans, regardless of grandfathered status.

The final rules increase the maximum dollar amount of rewards or surcharges (for failing to participate) that employers can offer employees based on specific health standards and outcomes to 30% of the total premium cost of their health care coverage. For incentives tied to smoking prevention or reduction programs, the maximum reward or surcharge can be 50%.

Little restructuring expected

The good news is that the final rules give employers greater flexibility to design wellness programs that are expected to drive better health management among their employees and curb growth in health care costs. Obama Administration officials also said they expect most employers' existing wellness programs would require little if any restructuring to comply with the new regulations.

The rules divide wellness programs into the following categories and subcategories:

- Participatory wellness programs that either do not provide a reward or do not include any conditions for obtaining a reward based on an individual satisfying a standard that is related to a health factor; and
- Health-contingent wellness programs that require an individual to satisfy a standard related to a health factor to obtain a reward. These are further subdivided as:
  - Activity-only wellness programs, in which an individual is only required to perform or complete an activity related to a health factor, and
  - Outcome-based wellness programs, under which an individual must attain or maintain a specific health outcome in order to obtain a reward.

The final rules also outline the steps a plan must take to ensure a wellness program complies with the regulations, including that it:

- Is reasonably designed to promote health or prevent disease;
- Has a reasonable chance of improving the health of, or preventing disease in, participating individuals;
- Is not overly burdensome;
- Is not a subterfuge for discriminating based on a health factor;

Alternative incentive standard

Under the final rules, if an individual employee does not meet a wellness program's target health standard for incentive eligibility, the employer must provide a "reasonable alternative standard" that would allow the employee to still earn the incentive even though a medical condition prevents them from meeting the initial standard, or if it is medically inadvisable for them to pursue the goals set out in the original standard.

An activity-only program may require verification that a health factor makes it unreasonably difficult or medically inadvisable for the individual to attempt to satisfy the otherwise applicable standard.

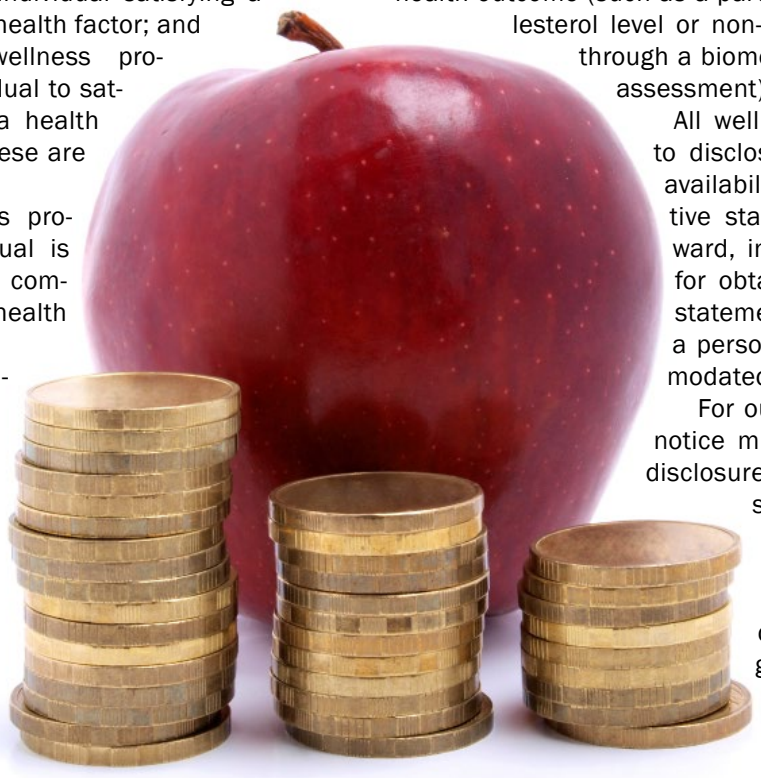
The final rules also state that if an alternative incentive standard is simply a less stringent variation of the initial standard, those affected employees must be given extra time to comply. Additionally, plans must allow employees to submit a second alternative standard based on the recommendations of their personal physician.

Outcome-based wellness programs generally provide rewards based on whether an individual has attained a certain health outcome (such as a particular body-mass index, cholesterol level or non-smoking status, determined through a biometric screening or health risk assessment).

All wellness programs are required to disclose in all plan materials the availability of a reasonable alternative standard to qualify for the reward, including contact information for obtaining the alternative and a statement that recommendations of a personal physician will be accommodated.

For outcome-based programs, the notice must also be included in any disclosure that an individual did not satisfy an initial outcome-based standard.

Eligible employees must be given an opportunity to qualify for a wellness program reward at least once a year. ❖



CAUTION CAUTION CAUTION

Workers' Comp

Calculating the Cost of Workplace Injuries

IT'S NO secret that workplace accidents can cost your company dearly. There's not only the loss of an employee who has to take time off work for treatment and recovery, but you also have to consider hiring and training costs for a replacement, the risk of citations and fines by OSHA – and also the likelihood of increased workers' comp costs.

It's estimated by the National Safety Council that the average workplace injury ends up costing (in treatment and lost time) more than $40,000. But just how much can an industrial injury cut into your profits? There's a website for that (sorry, no app yet).

OSHA's $afety Pays Program offers a calculator to figure out how much various injuries can cost you in terms of lost profit.

It has a fairly comprehensive list of the most common injuries in workplaces, and includes other fields of data that you need to enter to arrive at a cost.

While OSHA cautions the calculator is not exact, it does provide a glimpse of just how damaging an injury can be to your company's finances.

According to OSHA, the program "is intended to help raise employers' awareness of the impact of occupational injuries and illnesses on profitability", and is not a standard or regulation.

The program offers contractors a worksheet where they choose the type of injury from a list and then enter information including workers' comp costs, profit margin and number of injuries. The worksheet then provides estimates of direct and indirect costs, as well as the amount of sales that would be needed to cover these costs.

While this tool is only meant as a rough estimate, it can be a great visual to remind business owners, foremen and employees on how unsafe practices impact the company's bottom line.

While it may not be the most important reason to work safely, the calculations may offer an extra incentive for everyone to reinforce proper safety habits.

The tool can be found here:
www.osha.gov/dcsp/smallbusiness/safetypays/estimator.html

In addition, Safety Management Group, a workplace safety consulting company, has an injury cost calculator so that you can find the total costs to you of an injury. You can plug in the direct costs of a claim and it will calculate the indirect costs to you.

Indirect costs include administrative time dealing with the injury and medical care, increases in insurance costs, replacing the hours lost by the injured employee with hiring another employee, loss of reputation and confidence in employees and clients, unwanted media attention, and more.

You can find that calculator here:
www.safetymanagementgroup.com/injury-cost-calculator.aspx

These two tools should help you think of safety as a profit center, rather than an expense. Following are just a few potential profit areas:

Insurance premiums – If you keep workers' comp and other insurance claims under control –thus lowering your X-Mod – your insurer will perceive your company as a lower risk. Consequently, you may be eligible for reduced premium rates.

Regulatory compliance – Failure to adhere to OSHA-mandated safety requirements can result in substantial penalties.

Having an effective safety program in place can help you to avoid fines, or may help to reduce the severity of fines should a violation occur.

Higher-caliber employees – A well-trained workforce with proper safety training is an invaluable resource for any employer, large or small.

Not only will employees be more productive, they will be better able to help identify unsafe conditions and/or operating practices, as well as situations where jobs might be done more safely and effectively.

Company safety culture – Promoting a safe work environment improves employee morale. And if employees believe the company cares about their well-being, they are likely to care about the well-being of the company. The result can be greater productivity and employee loyalty. ❖