

It Benefits You Your Employee Benefits Newsletter

JULY 2020

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COVID-19 Return to Work Checklist

As states slowly start to loosen the restrictions on businesses to reopen, employers are faced with returning employees to work in unprecedented conditions. We've created [this checklist](#) to help you start the process of bringing your employees back to work and reopening your business.



Upcoming Compliance Deadlines



Form 5500 Filing Deadline

Generally, a Form 5500 must be filed no later than the last day of the seventh month after the end of the plan year for ERISA pension and welfare benefit plans. For calendar-year plan years, this deadline is July 31. With few exceptions, an employer must file a Form 5500 if any of its ERISA benefit plans had 100 or more covered participants on the first day of the plan year. **Due to COVID-19, the IRS extended the deadline for some "key tax filings", but only those with deadlines that fall before July 15, 2020. The extension does not extend Form 5500 filings for calendar year plans.*



PCORI Fee/Form 720 Deadline

If an employer sponsors a self-insured health plan, including a level-funded plan or an employer-sponsored HRA, the ACA requires the employer to submit the annual Participant-Centered Outcomes Research (PCORI) Trust Fund Fee. The PCORI fee requirement was supposed to sunset this year for calendar-year plans; however, in late 2019, the IRS extended the requirement for an additional 10 years. On June 8, the IRS issued Notice 2020-44, which increases the PCORI fee amount for plan years ending on or after October 1, 2019, and before October 1, 2020, to **\$2.54** multiplied by the average number of lives covered under the plan. Plan sponsors must report and pay the PCORI fee using IRS [Form 720](#). Please contact your McGriff Benefits Consultant to discuss the most appropriate IRS approved calculation method.

Open Enrollment Considerations in Light of COVID-19



For many employers, the spread of COVID-19 required that on-site company operations be suddenly shifted to teleworking due to social distancing. While much has been written about the operational challenges brought on by the pandemic, it is important that we not overlook the impact social distancing may have on this year's upcoming annual benefits enrollment. Below, we have compiled a list of considerations and tips to help you move forward with your open enrollment, even with stay-at-home orders in place.

The Importance of Keeping Current Employee Contact Information

It has always been a best practice to keep your employees' contact information up to date. Businesses who failed to do this were ill-equipped to let their employees know when "stay-at-home" orders were enacted. Developing a strategy to collect and periodically update this information is a **must** moving forward. Consider letting annual enrollment play a role in this strategy by:

- Requiring employees to log into your benefit administration (ben admin) system each year. There are many advantages to mandating that your employees review and sign off on their benefit elections, inclusive of them being able to review and confirm their current contact information.
- Having your ben admin vendor to set the contact information screen as required for new hires and each enrollment period, and require employees to confirm their information before proceeding to elect their benefits.

Tip: If you allow employees to make contact information changes in your ben admin system, be sure to extract those changes and update them in your payroll/HRIS system as well.

Altered Methods of Benefits Communication/Education

In the past, your company may have printed and handed out benefit booklets at group meetings in the conference or break rooms. Your employees may have even had one-on-one meetings with HR or enrollment counselors. Unfortunately, these options may not be available for this year due to social distancing. Now more than ever, your employees will need to understand the features of their benefits package (including medical, disability and EAP). You'll need to develop a strategy to communicate and educate them with social distancing in mind. Consider a combination of the following:

- **Mail** – While this is always an option, it may be cost prohibitive to mail benefit booklets to your entire population. Consider sending post card enrollment reminders instead, with some other methods of communication as well.
- **Email** – If you have been diligent with securing and updating valid email addresses for your employees, this may be an affordable way to send benefit information.
- **Video/Conference Calls** – Establishing video/conference calls, using tools such as *WebEx*, to conduct group meetings with your employees is a great option that allows you to present the information as you normally would. Tools such as *Skype* can help facilitate one-on-one virtual meetings with employees to answer their specific benefit questions.

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- **Uploading Benefit Booklets** – Uploading your benefit booklet to your company intranet and/or ben admin software can be an extremely cost-efficient way to share the information. **Tip:** You'll want to ask if your ben admin software allows you to post booklets specific to different employee populations (if applicable), since benefits, contributions and/or eligibility may differ amongst employees of different locations, classes, lengths of service, etc.
- **Embedding Company or Broker Recorded Videos** – Find out if your ben admin software allows embedded videos in the user interface. If so, consider recording (or having your broker record) your open enrollment meeting, and integrate it into the enrollment experience.
- **Decision Support Tools** – If you are making major changes to your health insurance benefits (such as adding High Deductible Health Plans), consider utilizing a decision support tool during this open enrollment to assist your employees in their benefit decisions. Inquire whether your current ben admin platform has this technology, and if so, if there are additional costs to activate it. If not, consider stand-alone tools provided by companies such as *Jellyvision*.
- **Call Center Capabilities** – Your ben admin vendor and/or broker may have relationships with call centers that can handle benefits education telephonically. This could substitute nicely for employees accustomed to one-on-one enrollment sessions.

Challenges for Benefits Enrollment

Many employees are accustomed to completing paper election forms and then submitting them to HR for electronic processing. Others may be familiar with self-enrollment through the company's ben admin portal, but have always done so via on-site, company computers. Neither of these may be possible this year. The following options can help overcome these hurdles:

- **Employee Self-Service** – Does your ben admin software have an employee self-service feature that you aren't utilizing? If so, this is the time to speak with your vendor about what is involved in standing this feature up. Also, is the site "mobile responsive?" In other words, if employees don't have access to home computers, can they access and enroll on the site via their smartphone/tablet?
- **Mobile Apps** – Does your ben admin software have a mobile app that allows for benefits enrollment? If so, this can be very beneficial for remote employees without access to a computer and/or strong internet connection. **Tip:** Inquire about push notifications, as this could supplement your benefits communication strategy.
- **Call Center Enrollment Support** – As referenced above, speak with your ben admin vendor and broker to see if they have arrangements with a call center that could handle enrolling employees via phone. If so, are all calls recorded and are conversations documented in the employee's ben admin record? What are the costs? **Tip:** Speak with your broker about offsetting call center costs with worksite benefit enrollments.

Taking action on the above will set you up for a successful open enrollment, even with social distancing measures in place!



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This article originally appeared in HR Professionals Magazine in June 2020. For your free digital subscription, visit www.hrprofessionalsmagazine.com.

Supreme Court Rules on Sexual Orientation & Gender Identity Discrimination Issue

In a highly anticipated decision issued on June 15, 2020, the U.S. Supreme Court has ruled that Title VII of the federal Civil Rights Act (Title VII) protects individuals against employment discrimination based on their sexual orientation or gender identity. Title VII prohibits employers with 15 or more employees from discriminating against employees and job applicants on the basis of race, color, religion, national origin or sex. Federal courts have previously held that the law's protections only extend to traditional notions of gender.

The Supreme Court's opinion in [Bostock v. Clayton County](#) reverses those rulings, holding that discrimination based on homosexuality or transgender status necessarily involves intentionally treating individuals differently because of their sex, which is prohibited by Title VII. The Court also ruled that when an employer takes adverse action against an individual who is gay or transgender only in part because of that individual's sex, that action still violates Title VII. This is true even if the employer subjects male and female homosexual or transgender individuals to the same rule.

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Employers may need to review their employment policies to ensure that they do not discriminate against individuals due to their sexual orientation or gender identity. Employers should also be aware that the Court's ruling aligns with the Equal Employment Opportunity Commission (EEOC)'s current Title VII enforcement policies, and that state laws may specifically prohibit employment discrimination based on sexual orientation and gender identity.

Compliance Q & A: Spousal Carve-Outs and Surcharges

Question: I'm a large employer and need to cut down on costs to my group health plan. Do I have to offer coverage to my employees' spouses? How can I limit the number of spouses on my group health plan?

Answer Summary: Employer sponsors of group health plans are often looking for tools to control health care costs. Imposing plan restrictions on spousal coverage or requiring additional premiums for spousal coverage can be powerful cost-savings tools, especially for employers who sponsor plans with generous dependent coverage or whose employee populations regularly elect family coverage. There are a couple of ways spouse-specific design changes can be structured: 1) spousal surcharges, and 2) spousal carve-outs. Spousal carve-outs can either come in the form of elimination of coverage for spouses who have coverage through their own employers or the elimination of spousal coverage altogether. There are a number of compliance concerns with spousal surcharges/carve-outs in areas like the Affordable Care Act (ACA), Health Insurance Portability and Accountability Act (HIPAA), Employee Retirement Income Security Act (ERISA), and state law concerns, as well as important HR administration issues to consider. It's essential to work closely with your McGriff Benefits Consultant when designing these plans! [Click here](#) to read more.



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McGriff Employee Benefit Compliance Officer

Obesity: America's COVID-19 Achilles Heel



There are many reasons why the dangers of COVID-19 seemed to sneak up on the US. Outbreaks of viruses in recent years circulated in the news and resulted in illness and death, but were contained in pockets, didn't interfere with our daily lives, and then disappeared. Watching the virus cause havoc from across the world might have also lent itself to a false sense of spectatorship, but did not spark immediate concern. Perhaps one of the most compelling reasons why COVID-19 did not raise alarms was the idea that it only impacted people of advanced age, with multiple conditions, or who were considered medically fragile. However, as we are becoming better acquainted with this virus and how it impacts our population, it is highlighting one of our nation's most prevalent health concerns: obesity.

While the answers are not yet clear, there are a few theories as to why obesity is proving to be a dangerous risk factor. Excess weight, particularly around the midsection, could cause mechanical stress that may impair lung function. Other theories consider that inflammation caused by too much body fat and poorly controlled blood sugar could exacerbate the inflammation caused by the virus, or that there are potential links to poor bioavailability of vitamin D, which is fat soluble.

Obesity is not the only lifestyle related condition linked to more severe illness caused by COVID-19. Type 2 diabetes, pre-diabetes, and nonalcoholic fatty liver disease (NAFLD) are often caused by poor eating habits, such as heavy sugar and processed carbohydrate intake, and a lack of physical activity. They can occur in people who are of all weights and sizes, and can all be considered risk factors for a more severe progression of the virus.

To read this advisory in its entirety, [click here](#).



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What can employers do?

- Educate employees on not only following proper protocol for safety and sanitation practices, but how other conditions and lifestyle can impact their risk.
- Consider implementing weight management and disease improvement programs; include spouses.
- Speak with your broker partner about data analytics solutions to evaluate your modifiable population health risk factors and potential solutions.
- Provide resources to employees to eat healthy and become more active while they may be away from their normal routines and schedules.
- Host virtual lunch and learns with topics on health improvement and risk reduction.
- Speak with your carrier or condition management provider about targeted outreach for at risk members.
- Encourage and remind employees about options for telehealth, nurselines, and other resources for them to continue with regular check-ups, screenings, and condition management.
- Provide EAP and other mental and emotional health resources to help employees manage stress related to body image; removing the stigma and shame associated with weight can be helpful for employees to feel in control and positive about making changes.

HOW TO SUPPORT THE MENTAL HEALTH OF YOUR EMPLOYEES DURING COVID-19



The COVID-19 pandemic has taken a toll on everyone's mental health. People have experienced financial hardship, additional challenges with childcare and school cancellations, job loss, reduced hours, sickness, and grief. The future is uncertain, and the present is extra stressful. And to make matters worse, many of the networks and practices that people use to support their mental health are currently unavailable due to social distancing.

In this environment, where people are increasingly anxious and may be socially isolated, it's even more important that managers support the mental health of their team members — both those who are coming into the workplace and those working from home. High stress can quickly destroy trust, inhibit empathy, and break down teams — each of which makes it more difficult for people to do their jobs. Fortunately, employers can provide some support. Here are some things employers can do to help employees manage stress and tend to their mental health:



When possible, give employees a little extra time to slow down and rest

Employees may need a moment to breathe or a day to regain their peace of mind, and they shouldn't be afraid to ask for time to take care of themselves. The ability to occasionally function at a medium (or even slow) pace should be built into performance expectations so that employees can avoid burnout or breakdown.



Offer PTO, mental health benefits, and flexible schedules if appropriate

In some cases, employees who want to get the mental health care they need can't afford it. Losing pay from a missed work shift might be too great a hardship, and effective treatments might be financially out of reach. These financial hindrances can exacerbate conditions like anxiety and depression. In other cases, employees can afford the time off and the treatments, but they can't make regular appointments work with their schedules. If you can offer paid time off, health insurance benefits, or flexible schedules, these can help employees get the care they need.



Offer an Employee Assistance Program (EAP)

EAP gives employees access to expert, confidential assistance for substance abuse issues, relationship troubles, financial problems, and mental health conditions. These services are offered through an outside provider that connects employees with the appropriate resources and professionals. These programs enable you to provide professional assistance to employees while allowing them confidentiality at work. EAPs are also inexpensive, costing between just 75 cents and 2 dollars per employee per month.



Make reasonable accommodations when possible

If an employee informs you that they have anxiety, depression, or another mental health condition, and they request an accommodation, you should begin the interactive process to determine what reasonable accommodation(s) you can provide in accordance with the Americans with Disabilities Act (ADA). The ADA applies when an employer has 15 or more employees, but many states have similar laws that require employers to make accommodations at an even lower employee count. You can learn more about the ADA on the HR Support Center.

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Create digital spaces for friendships to grow

Loneliness in the workplace can be a serious issue, with significant negative effects on both employees and the workplace. Right now, with many employees working from home, it's harder to spot signs of it. Employers can facilitate friendships and connections between employees by setting up virtual chat programs and video conferencing apps.

Employees also need to be reassured that it's fine for them to take a little time during the workday to reach out to others about non-work matters and participate in virtual games and other fun group activities. Managers can set the tone by participating in fun chats and activities and encouraging employees to join in. Helping employees foster friendships is not only the right thing to do, it can also reduce turnover and increase engagement.



Promote good mental (and physical) health in the workplace

Healthy habits are important for everyone to practice. Consider setting time aside during the week or month for employees to participate in activities like yoga, meditation, and mindfulness that develop and strengthen these habits. If you aren't familiar with these practices, solicit the help of your employees. One or more of them may know a lot about these activities and be able to assist you in setting up a workplace program or modifying a program for employees currently working from home.

Make use of additional resources

During this time, employees might benefit from [this three-page list](#) of several virtual recovery resources from the federal Substance Abuse and Mental Health Services Administration and [this COVID-19 resource and information guide](#) from the National Alliance on Mental Illness.

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HSA/HDHP Limits Increase for 2021!

The IRS limits for HSA contributions increase for 2021. Eligible individuals with self-only HDHP coverage will be able to contribute up to \$3,600 for 2021, while eligible individuals with family HDHP coverage will be able to contribute up to \$7,200 for 2021. There were no changes to the HDHP minimum deductible, but the HDHP maximum-out-of-pocket expense limit did increase to \$7,000 for self-only coverage and \$14,000 for family coverage.

The below chart shows the HSA and HDHP limits for 2021 as compared to 2020. It also includes the catch-up contribution limit that applies to HSA-eligible individuals who are age 55 or older, which is not adjusted for inflation and stays the same from year to year.

Type of Limit		Original Limit 2020	Current Limit 2021	Change
HSA Contribution Limit	Self-only	\$3,550	\$3,600	Up \$50
	Family	\$7,100	\$7,300	Up \$100
HSA Catch-up Contributions (not subject to adjustment to inflation)	Age 55 or older	\$1,000	\$1,000	No change
HDHP Minimum Deductible	Self-only	\$1,400	\$1,400	No change
	Family	\$2,800	\$2,800	No change
HDHP Maximum Out-of-Pocket Expense Limit	Self-only	\$6,900	\$7,000	Up \$100
	Family	\$13,800	\$14,000	Up \$200

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FINAL RULE ON ACA SECTION 1557 NONDISCRIMINATION

On June 12, 2020, the U.S. Department of Health and Human Services (HHS) issued a final rule implementing Section 1557, the civil rights provision of the Affordable Care Act (ACA) relating to nondiscrimination in federally funded health care.

Section 1557 has been in effect since the ACA's enactment in 2010. However, a federal court issued an injunction temporarily blocking enforcement of its provisions related to discrimination based on gender identity or termination of pregnancy. Following this injunction, HHS issued a proposed rule on May 24, 2019, to revise the Section 1557 nondiscrimination provisions related to gender identity and language access protections. Consistent with that proposal, the final rule:

- Removes gender identity and termination of pregnancy from being included as sex discrimination; and
- Eliminates the requirement that covered health programs and activities distribute nondiscrimination notices and tagline translation notices in at least 15 languages to patients and customers.

The final rule does not affect the substantive Section 1557 provisions related to nondiscrimination on the basis of disability, race, color, age, national origin or sex. In addition, under the final rule regulated entities will still be required to submit to HHS a binding assurance of compliance with Section 1557.

In light of the recent Supreme Court ruling, it remains to be seen whether these final rules will remain unaltered. [Click here](#) to read more.

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We are excited to bring you ThinkHR — a robust web-based resource with live advisors, reliable content and interactive technology solutions — an end-to-end People Risk Management solution! If you are involved with HR compliance or employee issues at any level, this is another valuable benefit from your trusted McGriff Insurance team that can save you time and money.

Join us on July 7, 2020 at 2:00 p.m. EDT for a brief overview of ThinkHR and its benefits available to you as a client of McGriff. [Click here](#) to register!



ThinkHR Learn: Focus on Diversity

Did you know that ThinkHR Learn has several courses dedicated to helping you create a diversified workforce and managing the challenges that arise in employee relations and implicit biases? With your ThinkHR access, you can assign your managers and employees courses such as, "A Manager's Guide to Diversity, Inclusion and Accommodation" and "Diversity on the Job: The Importance of Diversity & the Changing Workplace," at no additional cost. Login to your McGriff-sponsored ThinkHR account to learn more!



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