McGriff
EMPLOYEE BENEFIT SOLUTIONS

It Benefits You

Your Employee Benefits Newsletter

February 2024

In This Issue:

The Year of the Dragon!

The Lunar New Year symbolizes fresh starts and prosperity. At McGriff, our commitment is to empower you with the knowledge and resources to know when your current employee benefits strategy is working for you and when you could prosper from creative changes. We look forward to being your partner in making every moment of the Year of the Dragon truly rewarding for your company and your employees.

Will 2024 Bring Us AI and ML Threats?

February 15 | 2:00 pm EST | 1.0 HRCI/SHRM PDC Pending

In our ever-evolving digital landscape, the fusion of artificial intelligence (AI) and machine learning (ML) technologies has ushered in a new era of innovation and efficiency. However, as we step into 2024, we must also prepare for the darker side of this technological advancement—the looming cybersecurity threats posed by both AI and ML.

This webinar will dissect the most recent trends and vulnerabilities that cybercriminals are likely to exploit using AI and ML techniques. From AI-driven social engineering attacks to ML-powered malware, we will explore the full spectrum of threats and discuss practical strategies to defend against them. With insights from real-world incidents and cutting-edge research, this webinar aims to equip individuals and organizations with the knowledge and tools needed to safeguard their digital assets and privacy in the face of evolving cyber threats driven by AI and ML technologies.

Register

Upcoming Compliance Deadlines

March 1

Medicare Part D Coverage Disclosure to CMS for Calendar Year Plans

Employers whose group health plans provide prescription drug coverage must report to CMS within 60 days after the beginning of the plan year whether the benefits are creditable with respect to Medicare Part D coverage.

March 1

MEWA Annual M-1

Multiple Employer Welfare Arrangements (MEWAs) must file their Form M-1 annual report by March 1 with the DOL. This filing requirement applies to all MEWAs, including insured and self-insured arrangements.

March 1

IRS Forms 1095-B/1095-C Due to Individuals

A self-funded employer (including level-funded) with fewer than 50 full-time employees is required to provide 1095-B individual statements to full-time employees covered under their group health plan; however, the IRS allows an employer to meet this obligation using an alternative manner of furnishing. See IRS Instructions of Furnishing 1095-B Forms for more information.

An Applicable Large Employer (ALE) must provide 1095-C individual statements to full-time employees with specific information relating to each employee's offer of coverage for every month during the 2023 year (1095-C form, Parts I and II). If an ALE is self-funded, it must also complete Part III of the 1095-C form reporting the months in which the employee and any dependents were covered under the plan.

April 1

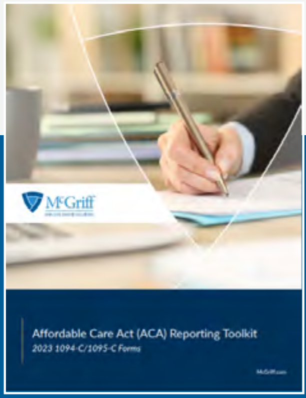
IRS Transmittal of Forms 1094-B/1095-B and 1094-C/1095-C

An ALE must file Form 1094-C as well as the 1095-C forms sent to all full-time employees with the IRS. A self-funded employer with fewer than 50 full-time employees will file Form 1094-B with the 1095-B forms.

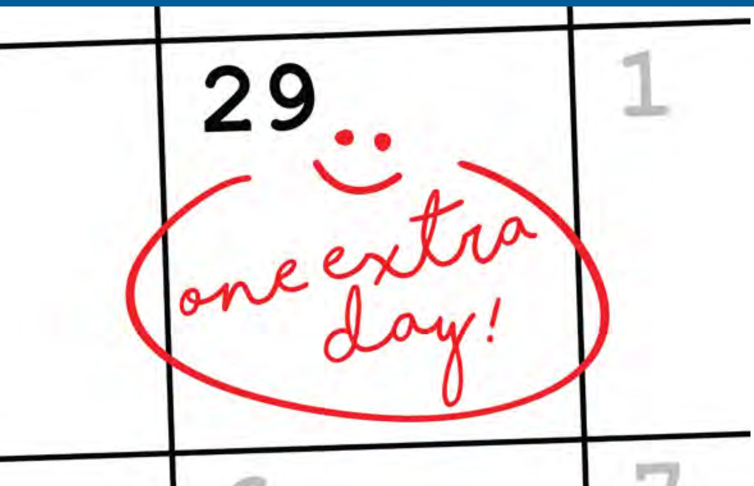
The IRS has now lowered the 250-return threshold for mandatory electronic reporting to 10 returns (aggregated count includes all information returns). This means almost every employer is now required to complete their ACA reporting electronically.

Affordable Care Act (ACA) Reporting Toolkit

McGriff has updated its comprehensive 2023 ACA Reporting Toolkit to assist in the many questions that arise for employers when completing the ACA reporting requirements, both when reporting on their own as well as when coordinating with their chosen ACA reporting vendor.



Click on the image above to access the toolkit.



It's a Leap Year!

Click here to see how the 2024 leap year can impact compliance deadlines and how employers can proactively prepare and navigate any potential changes.

Compliance Q & A: Accidental MEWA

We have a "sister" company. Can we put both companies on the same medical insurance plan without raising any compliance issues?

If the two employers are not considered to be part of a controlled group, sponsoring the same plan for group medical benefits would raise compliance concerns.

The Employee Retirement Income Security Act (ERISA) defines a Multiple Employer Welfare Arrangement (MEWA) as: "an employee welfare benefit plan...which is established or maintained for the purpose of offering or providing [welfare benefits] to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries."

When deciding whether or not there are "two or more employers," ERISA applies controlled group/common control standards from the Internal Revenue Code. If two employers are under common control or a controlled group, they are considered a single employer, therefore sponsoring the same plan for group medical benefits would not be considered a MEWA. However, if there is insufficient common ownership of companies participating in a single group health plan, a MEWA can be created totally by accident.

Self-insured MEWAs can be subject to state laws, which vary. A plan sponsor operating an unlicensed self-insured MEWA in a state that strictly regulates these plans may be subject to harsh criminal and civil penalties.

Plan sponsors of fully insured MEWAs have their own concerns. And we should also mention the importance of determining whether or not the MEWA itself constitutes a single ERISA-covered plan (which would allow the sponsor to file a single Form 5500, among other things) or whether each employer participating in the MEWA is deemed to have its own plan for purposes of ERISA. If the latter is true, then each employer’s plan must separately satisfy its ERISA obligations, including, for example, filing a Form 5500). MEWAs also can create additional federal filing and reporting requirements.

For more information, read our full McGriff Compliance Q&A: Accidental MEWA.

Using Workforce Insights to Inform Your 2024 Strategic Initiatives for Benefits

It's likely that many of you just wrapped up open enrollment season in the 4th quarter of 2023. First, congratulations on making it through to the other side! But don’t turn the page on 2023 just yet. Open enrollment is unique because it’s usually one of the only times each year that you have the attention of your entire workforce at once. The first quarter of a new plan year is an excellent time to review the outcomes of these decisions and see how they compare to what you had forecasted for the upcoming year. During open enrollment, your employees' elections illustrate their preferences and what they value the most within your benefit offerings. For example, if you forecasted that a large segment of your population would elect a new voluntary benefit offering this year, but it wasn’t as popular as you had hoped, it would be helpful to understand the trend so that you can adjust your go-forward strategy for the remainder of the year. Use this data to your advantage! It can enhance employee satisfaction, align future offerings to their needs, and even measure the effectiveness of your communication strategy.

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Conducting a post-open enrollment analysis is one of the best ways to chart your path to accomplish these goals. An analysis will provide your team valuable information to help shape the organization's benefits strategy moving forward. Most of the time you can rely on the data to simply confirm the direction you are heading, and course correct to any minor differences in experience versus your expectations. Perhaps you updated your plan offerings to add an additional plan, or maybe you adjusted your employee contribution strategy to entice employees to migrate to a more cost-effective plan offering. Whatever the goal, take a moment to review the data to tell you how close you were in achieving your desired outcomes. If you were successful, identify the most likely reasons for this success and use these strategies for future initiatives. If you fell short, take a moment to understand why and how you can do better in the future.

As you know, financial considerations are an important component of benefits management. Changes in year-to-year enrollment can influence previously forecasted budgets and knowing what happened can help you respond to those differences early in the year. By reviewing employee selections, you can compare the cost effectiveness of certain plan options and re-forecast how they will affect the benefits budget in 2024.

Of course, the data can tell you more than just the financial impact. Understanding the level of employee engagement with new voluntary benefit offerings or certain well-being or technology solutions can help you refine your communication and benefits education strategy. This simple practice can help ensure the success of these programs you undoubtedly did a lot of work to evaluate and implement last year. This will help you gain a deeper understanding of which benefits resonated with employees and which were not as well received or understood. Open enrollment is important, but it's only the start of a successful benefits communication and education strategy. The sooner you can identify the trends, the better you'll be able to react to them.

In an ever-changing work environment, doing periodic workforce analyses is an important strategic tool for future planning. By listening to your workforce, tracking trends in demographics and preferences, employers can adapt their strategy to stay ahead of the curve. By employing a forward-looking approach you'll be sure to keep your benefits package relevant and attractive in a competitive job market. It might just be the difference in your talent retention and recruitment efforts this year.

This article was previously published in HR Professionals Magazine. For your free digital subscription, click here.

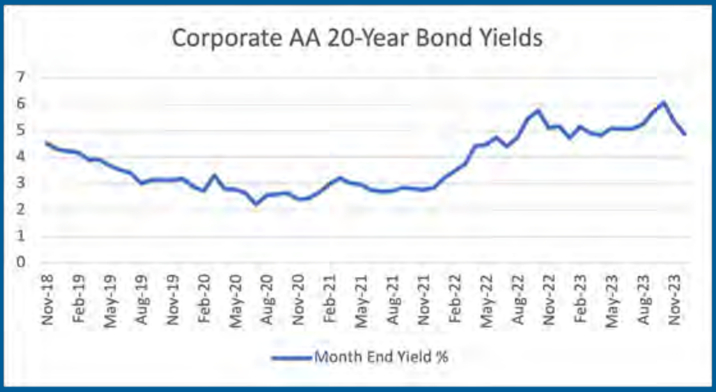
Nick Pearce, ASA, MAAA, FCA
EB Insights & Analytics Practice Leader

The McGriff 2024 National Benefit Trends Survey is Live!

Weigh in on the employee benefits challenges and strategies your organization is facing this year and be among the first to hear from us about the results. If you have not yet responded, please click here to take the survey. The survey will close later this month so don't miss your chance to participate.

Implications of Rising Interest Rates for Pension Plans

After years of declining or flat interest rates, long-term bond yields have been mostly on the rise over the last two years. This graph shows the long-term yields on corporate bonds for the last five years.



Fidelity fixed income website: https://fixedincome.fidelity.com/ftgw/fi/FIResearchMarkets?sid=2

We will discuss the impacts of these rising rates on various measures of pension plan funded status, in spite of likely poor asset returns, especially during 2022:

- **Cash contribution (IRS) –** Since the funding rules reflect the use of smoothed interest rates for almost all private sector pension plans, the interest rates used for funding purposes have actually continued to decrease by about 15bps per year. Therefore, many plans have seen no improvement in funded status, in fact they likely have seen a steep decline if the assets performed especially poorly.

  Anecdotally, some plan sponsors saw a 30% decline in their Adjusted Funding Target Attainment Percentage (AFTAP) since the beginning of 2022. The AFTAP shows up on the Annual Funding Notice (AFN) provided to all participants. With this lower funded status, some sponsors have seen or will soon see increases in their required contributions.

- **Accounting (ASC) –** Because the accounting discount rate is based on current market yields, the accounting funded status for most plans has improved, in some cases significantly, since the end of 2021. After many years of often significantly lower accounting discount rates compared with IRS funding rates, now the opposite is true, meaning the plan's accounting funded status may very well look better than the plan AFTAP.

- **Pension Benefit Guarantee Corporation (PBGC) –** The amount of variable rate premium (VRP) that a plan must pay to the PBGC is directly related to the plan's funded status using the PBGC rates. However, plan sponsors have a choice of two different methodologies for selecting those rates, which can only be changed every five years. If the sponsor is using the Alternative method (smoothed rates over the last two years), then they likely have seen a slight improvement in the plan's VRP liability, but probably not in the funded status due to asset returns. So the VRP is likely higher than it has been recently.

  If the sponsor is using the Standard method (rates for the month before the valuation date), then they will have seen an improvement in the plan's funded status and a decrease in the VRP. The PBGC also requires some larger plans to also report under Section 4010. The interest rates used for this purpose are smoothed over the prior 24 months, so they are not as high as current market rates. However, that average has been trending up, so the 4010 funded status should be improving as well.

- **Plan termination –** A typical plan termination results in some participants receiving their benefits in the form of a lump sum and others receiving an annuity to pay for their current or future benefits. In either case, the interest rates used are based on current market rates (similar to Accounting above).

  Granted, most plans have a lookback month for the interest rates used that is "locked" for 12 months, but since rates have been rising, the funded status on a plan termination basis is often much improved over the last two years. As a result, many plan sponsors are now having serious discussions about terminating their plan.

Implications

Many plan sponsors have a "glide path" for their investment policy. And as a result of the improved funded status (in most cases) following the rise in long-term interest rates, they've taken steps to reduce their equity allocation and move toward a more liability-driven investing (LDI) strategy.

Others have considered or implemented various risk transfer options, such as paying lump sums to various cohorts of participants (terminated vesteds or retirees), conducting an annuity purchase (either a buy-in or a buy-out) for one or more of these groups or a subset of a group, or the ultimate risk transfer option, plan termination.

For more information on this topic or other pension plan issues, please contact your McGriff Benefits Consultant.

Dan Berry, FSA, MAAA, EA
McGriff Retirement Consulting Actuary

Navigating the Wave of Gene Therapies

In the rapidly evolving landscape of health care, gene therapies have emerged as a beacon of hope, offering groundbreaking treatments for a multitude of genetic disorders. Gene therapies are at the forefront of medical innovation, targeting diseases at their genetic roots and offering potential cures for a variety of conditions, from rare genetic anomalies to more widespread diseases.

Historically, the pharmaceutical industry has focused on developing therapies that treat chronic disease states, creating patients and revenue streams for life. Gene therapies have turned this paradigm on its head, offering de facto cures for an emerging number of diseases that previously may have only had therapies to treat their symptoms.

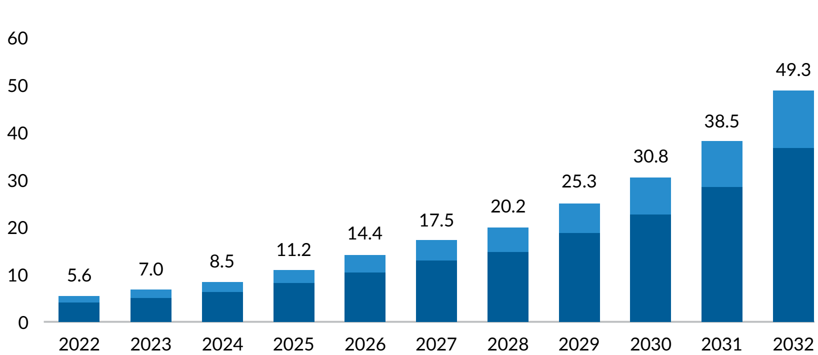
For many, gene therapies are true miracle drugs, however, they come with a cost. These new and exciting treatments come with a complex challenge for employers who are committed to providing quality healthcare benefits, while also managing their financial resources effectively. Let's delve into some of the intricacies of gene therapy and the strategies employers can adopt for cost containment.

Understanding Gene Therapies

The development and production of gene therapies involve sophisticated technology and personalized approaches, leading to significant costs. The global gene therapy market is set to grow from $7 billion in 2023 to $50 billion over the next decade.

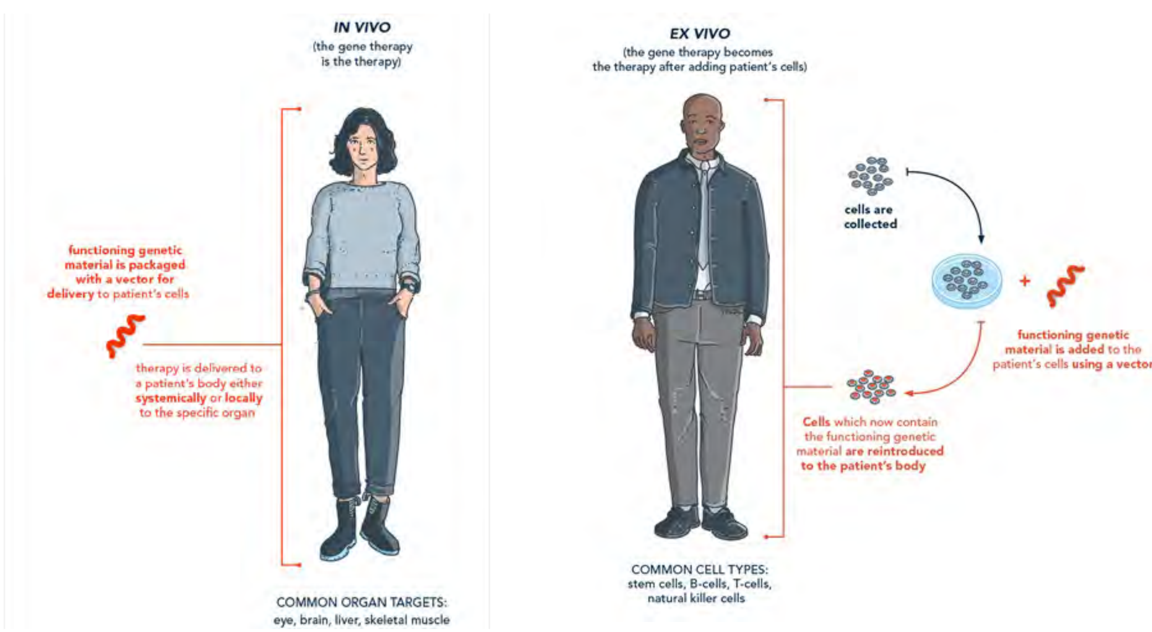
Global Gene Therapy Market

Size, by Delivery method, 2022-2032 (USD Billion)



Market.us April report

As noted in the graphic on page one, gene therapies fall into two broad categories of treatment modalities – in vivo and ex vivo. In vivo gene therapies introduce new genetic material, typically DNA, into your cells directly via something known as a vector that transports the genetic material into the blood or target organ. In vivo treatment is typically used when disorders target one specific gene or one specific organ and are sometimes referred to as "one-and-done" treatments where patients do not need to return for additional treatment.



Graphic credit: https://www.thegenehome.com/how-does-gene-therapy-work/techniques

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While these therapies may not involve an extensive set of clinical interactions, they can still be wildly expensive. Luxturna, used to treat an inherited retinal disease, costs upward of $850,000; Zolgensma, used to treat spinal muscular atrophy, costs over $2 million. Despite their cost, it is impossible to discount the effect these drugs have on patients, allowing them to live a normal life that would not have otherwise been possible.

Ex vivo gene therapies are most often used to treat blood related disorders, such as certain types of lymphomas and leukemias. Unlike in vivo treatment where patients receive the same therapy packaged by the manufacturer, ex vivo gene therapies are wholly unique to each individual patient. To create these ex vivo treatments, cells are collected from the patient, genetic material is then added to the patient's cells, and those cells are then re-introduced into the patient's body. Because of the complexities in collecting blood from the patient, ex vivo treatments can be even more expensive than in vivo treatments and involve hospitalization.

The Financial Implications for Employers and Cost Containment Strategies

As evidenced by the costs above, the financial impact of gene therapies on health plans can be profound. Treatments can cost millions of dollars per patient, posing a challenge for employers to maintain affordable and sustainable benefit programs. It's imperative that employers understand these potential costs and have cost containment strategies in place to mitigate the long-term implications on healthcare budgets. Employers should layer these strategies to create a comprehensive cost containment strategy.

Stop-Loss Insurance – Employers should consider investing in stop-loss insurance policies if they do not already have one. These policies act as a safety net, protecting businesses from the high financial impact of unexpected medical claims, including those for gene therapies. If you already have stop-loss in place, read the detail in your contract to make sure that gene therapies, either as a whole or specific treatments, are not excluded from coverage.

Risk Pooling – Risk pooling is especially beneficial for small and medium-sized enterprises. By joining larger gene therapy specific insurance pools, these businesses can distribute the financial risk associated with expensive gene therapies across a broader base, making high-cost treatments more manageable. Gene therapy risk pools are becoming more popular and typically cost employers around $1 PMPM for therapies covered by the pool. Some pools will even refund unspent funds at the end of year, further reducing their cost to employers.

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Strategic Benefit Design – Employers need to meticulously design their health benefit plans in conjunction with their insurance carriers. This includes setting specific guidelines for gene therapy coverage, such as caps on treatment costs, mandatory second medical opinions, and the introduction of step therapy protocols. While no employer should seek to exclude coverage for members who truly need these therapies, this approach ensures a balanced coverage that aligns with financial realities.

Alternate Funding – Should a patient require a gene therapy that is not covered by the plan, alternate funding through foundational support and charitable organizations sympathetic to their situations might be an alternative source of coverage. Samaritan Fund Program is one such organization that works with patients to combine an individual insurance plan and assistance, leaving them with little to no out-of-pocket cost.

Broader Implications and Future Direction

As gene therapy continues to advance, its integration into standard healthcare practices is inevitable. Employers have a unique opportunity to influence how these treatments are adopted and managed within health benefit plans.

By implementing proactive strategies and staying informed of the latest developments in gene therapy, employers can ensure access to these treatments while maintaining financial stability.

The emergence of gene therapies marks a significant milestone in medical science, offering hope and potential cures for many. However, due to the high costs, employers must take a strategic approach. Through astute cost containment strategies and active engagement in the broader healthcare conversation, employers can effectively manage these costs. This approach will ensure both the wellbeing of their employees and the sustainability of their health benefit programs in this new era of medical treatment.

Chris Hollman, PharmD
McGriff Pharmacy Practice Consultant

McGriff Brings You Mineral!

February 20 | 2:00 p.m. EST

McGriff is excited to provide our Employee Benefits clients with MINERAL – a robust web-based HR and compliance resource. Through your McGriff relationship, you have access to **Mineral Live**, a team of HR experts standing by to answer your questions or provide advice on virtually every HR or compliance-related issue; **Mineral Comply**, an award-winning online resource center for all of your workforce issues, including a Living Handbook Builder; and **Mineral Learn**, an incredible online training platform with more than 250 web-based courses for your employee training needs.

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