It Benefits You
Your Employee Benefits Newsletter

December 2020

In This Issue:

Brrr...!

It's time to bundle up — winter is here! As the temperatures continue to fall, you can count on McGriff to keep you up to date on hot benefits topics. Thank you for letting McGriff provide you with benefits guidance, innovative ideas and HR resources during 2020. We join you in looking forward to 2021 and continuing to serve as your trusted benefits advisors!

Upcoming Compliance Deadlines

January 31

Form W-2 Reporting of Employer-Sponsored Coverage

The ACA requires employers who issued 250 or more Forms W-2 in the preceding calendar year to disclose the aggregate cost of employer-sponsored coverage provided to employees on the Forms W-2.

March 1

IRS Transmittal of Forms 1094-B/1095-B & 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 by March 1, 2021 (since February 28 is a Sunday). A self-funded employer with under 50 full-time employees will file Form 1094-B, as well as the 1095-B forms sent to employees covered under the self-funded plan. (March 31, 2021 is the electronic filing deadline for employers filing 250 or more forms.)

March 2

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

Pursuant to I.R.C. Section 6055, a self-funded employer (including level-funded) with less than 50 full-time employees must provide 1095-B individual statements to full-time employees covered under their group health plan. Pursuant to I.R.C Section 6056, an 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 2020 year. **The IRS issued Notice 2020-76 automatically extending the January 31 deadline to provide 1095-C forms to individuals. In addition, a small self-funded ALE does not need to automatically furnish 1095-B statements to covered individuals, but must provide upon request.*

It’s Beginning to Look a Lot Like … “Bah, Humbug!”

Don’t Let the IRS Scrooge Ruin Your Company’s Holiday!

The holidays are approaching, but the IRS seems to be handing out lumps of coal in the form of expensive Affordable Care Act (ACA) penalties. These penalties relate to the Employer Shared Responsibility mandate and are often referred to as “Pay or Play” penalties. To fill the stocking even more, the IRS also recently upped its enforcement on Section 6055 and 6056 reporting requirements, issuing thousands of demands for penalties relating to late or incomplete IRS filings.

Join McGriff at 2:00 EST on December 8th to learn how to avoid the common ACA reporting mistakes that can trigger these un-festive penalties. Click HERE to register for this live webinar!

Open Enrollment

Don’t Forget Your COBRA Participants!

Open enrollment meetings are over … the last enrollment form has been submitted … insurance cards are in the mail. Whew! You’ve made it through another open enrollment with enough time to squeeze in a few days of vacation before year-end tax reporting hits! And then you remember … what about the COBRA participants?! Has the COBRA administrator been notified of the new benefit options and costs? Have the COBRA participants been notified of the new benefit options and costs and given an opportunity to participate in open enrollment?

It’s important to keep in mind that COBRA participants have the same rights as similarly-situated active employees, including the right to open enrollment. And this opens up a number of enrollment options that are often surprising to HR professionals. During open enrollment, COBRA participants generally have the opportunity to:

- **Change benefit or coverage options within the plan.** Let’s say your company offers two medical plan options, a PPO and an HDHP. As an employee John was covered under the HDHP option; so, when he terminated employment in May and opted to continue his coverage under COBRA, he was limited to the HDHP plan. During open enrollment, because active employees are given the opportunity to select between the PPO and HDHP options, John must also be given the opportunity to change his benefit coverage.
- **Add dependents.** When John terminated and elected COBRA, he had individual coverage. If active employees are permitted to switch between individual and family coverage during open enrollment, John has the same opportunity to add family member to his coverage.
- **Elect other benefit plans not originally continued under COBRA.** It may be even more surprising that a COBRA participant has the opportunity to enroll in benefit plans not originally continued under COBRA. Let’s say your company offers medical and dental coverage options, and active employees may enroll in one or the other or both. When John terminated employment, he was enrolled in the medical plan only; however, during open enrollment, John should be given the same enrollment options as active employees – meaning he now has the opportunity to enroll in the dental plan as well.

So, before you head off on that vacation, be sure you have checked off that last step of open enrollment and taken care of your COBRA participants!

Christy Showalter, JD

McGriff Employee Benefits
Compliance Officer

How to Improve Your Job Postings

A job posting is often the first impression a prospective job applicant has with your organization. It's important for that impression to be an informative one. Your job postings should convey why someone would want to work for your company, what distinguishes your workplace from others, what's exciting about your mission and vision, what you have to offer, and what the job is and requires. Here are a few ways to get better results from your job postings:

Highlight the company's strengths. Part of the purpose of a job posting is to sell your organization to prospective employees. It's a sales pitch that conveys your culture and brand. Be sure to include both traditional benefits (e.g., insurance offerings, retirement plan) as well as less common, more exciting perks (e.g., unlimited PTO, remote work options, product discounts). You should also mention company awards, notable achievements, and career development opportunities.

List the minimum requirements and essential functions of the job. You can also include the full job description, if you have the room for it. The requirements and functions you mention should be accurate and clear. You don't want to scare away great prospects with unnecessary requirements, but you also don't want a lot of unqualified people applying for the job.

Include the pay range. Posting the pay range of the job increase the number of applicants. It will also save you and potential applicants a significant amount of time by allowing them to self-select out of the running if the range is too low for their needs or if it clearly indicates that you are looking for a more experienced employee. It will also promote transparency and help create a more equitable workplace, but it's not a requirement.

Analyze the results of previous job posting locations, especially if you paid for them. Consider not only the upfront fee, but also whether you received a good number of applications specifically from that source. Were the candidates qualified? Have you ever hired candidates from this source? There's no sense paying to post job ads that aren't bringing in good candidates.

Consider alternatives to where you've posted in the past. Here are a few options:

- Overlooked talent pools (e.g., websites geared toward certain populations or groups)—these can be especially helpful for increasing diversity in your workplace.
- Community events and job fairs in your area—being able to answer questions about your company and your open positions can help weed out those who may not be a good fit or might not be happy in the role.
- Local schools—many colleges guarantee a certain job placement rate and have an entire department to help their students become employees in the industry of their education. Oftentimes the coordinators of these programs will come to you for jobs as well, which is another direct talent pipeline. Reach out to your local community colleges or local universities and talk with them about any students that they might have who would fit your job description needs. They often also have an internal communication system that can get your job posting in front of a lot of students (or even alumni) in a hurry.
- Previous applicants—even those you interviewed who might have been a second or third choice. You already know they're interested in your company, and you may even have met them face to face. Even if it's been half a year since they applied, reach out. What's the worst that can happen?

This article was published on November 10, 2020 by our strategic partners at ThinkHR (authored by Marisa Stoll) and reprinted with permission.

Final Rule on Health Care Transparency Issued

The Departments of Labor (DOL), Health and Human Services (HHS) and the Treasury (Departments) issued a final rule that imposes new transparency requirements on group health plans and health insurers in the individual and group markets.

Specifically, the final rule requires plans and issuers to disclose:

- Price and cost-sharing information to participants, beneficiaries and enrollees upon request:
  - A list of 500 shoppable services must be available via the internet for plan years beginning or after Jan. 1, 2023.
  - The remainder of all items and services is required to be available for plan years beginning on or after Jan. 1, 2024.
- In-network provider-negotiated rates and historical out-of-network allowed amounts on their website:
  - Detailed pricing information must be made public for plan years beginning on or after Jan. 1, 2022.

The final rule also allows issuers that share savings with consumers—resulting from consumers shopping for lower-cost, higher-value services—to take credit for those "shared savings" payments in their medical loss ratio calculations.

This article was republished, with permission, from Zywave.com

Supporting Employees' Financial Well-being During the COVID-19 Pandemic

The COVID-19 pandemic is not only challenging the way Americans live on a daily basis, but also posing significant economic threats that could have a lasting effect on their financial well-being. For purposes of this article, financial well-being refers to the state in which a person is able to meet their current and ongoing financial obligations, feel secure in their financial future and make choices that allow them to thrive.

Why It Matters

Finances are a leading cause of stress for employees and can be a major distraction at work. As a result, the workforce could experience reductions in engagement and productivity, increased absences, and poor health and well-being.

How to Help Employees

Employers can play a key role in supporting the financial well-being of their employees, and should consider the following ways to improve employees' financial literacy:

- Educate employees about financial well-being through workshops and educational content, addressing topics such as student loans, debt, credit, financial goals, emergency funds and retirement.
- Promote financial resources, including employee assistance programs (EAPs).
- Remind employees about all available benefits, and highlight perks that can offer financial relief or savings.

In general, employers should continue their due diligence in reviewing and adjusting benefits offerings so they align with employees' evolving needs.

Financial well-being is a challenging topic that directly impacts the workforce, but employers can offer support and help their employees make educated decisions.

This article was reprinted, with permission, from Zywave.com.

COVID-19 and Mid-Year Plan Amendments

The COVID-19 pandemic has made an enormous impact to employer sponsored group health plans. In response to the pandemic challenges faced by employers and employees, the government enacted significant COVID-19-related legislation and issued numerous pieces of guidance relating to employee benefit plans in hopes to bring some form of relief to employers and flexibility to employees. From the Families First Corona-virus Act (FFCRA) to the Coronavirus Aid, Relief and Economic Security Act (CARES) and all of the regulatory guidance in between, employee benefit plan compliance looks much differently than it did at the beginning of 2020.

Most often, changes to benefit plans are effective at the beginning of the plan year and communicated during open enrollment. But enter 2020, the pandemic, and an onslaught of mandatory and permissive COVID-19 health plan guidance. How should employers approach health plan changes that occur outside of open enrollment?

Below is a checklist of general steps required for mid-plan year amend-ments to plans subject to the Employee Retirement Income Security Act of 1974 (ERISA) and the Affordable Care Act (ACA) for COVID-19 related plan changes.

✓ **Amend Plan Document:** Amending a plan requires formal written action (i.e., a plan amendment). Plan sponsors must be sure to follow established plan procedures as outlined in the plan document and should reach out to applicable plan document provider(s) (Administrative Services Only Provider (ASO)/Third Party Administrator (TPA or the employer's legal counsel) for assistance in preparing the amendment and Summary Plan Description/ Summary of Material Modifications discussed below. With COVID-19 related changes, employers should strive to amend plans prospectively at best and as soon as reasonably feasible at worst.

✓ **Provide Updated Summary Plan Description (SPD) or Summary of Material Modifications (SMM):** If an employer makes a material change to a group health plan, ERISA generally requires notifying participants and beneficiaries of the change. This is accomplished by providing an updated SPD or SMM within 210 days after the end of the plan year in which the change is adopted. If the change is a material reduction in benefits or services under a group health plan, then must provide notice within 60 days after the date the change is adopted.

✓ **Provide ACA-Required Notice of Material Modifications:** The ACA requires advance notice when an employer makes a material change to a group health plan mid- plan year that would affect the content of the most recently provided Summary of Benefits and Coverage (SBC). Not all changes will affect the content of the SBC and trigger this rule. The DOL has indicated it will not seek to enforce this rule for certain other changes, such as plan design changes that provide greater coverage relating to the diagnosis and/or treatment of COVID-19, or that add benefits, or reduce or eliminate cost-sharing, for telehealth and other remote care services. Instead, it requires notice be provided as soon as practicable.

✓ **Consider and Address Impact on Grandfathered Status:** Certain plan changes can impact the ability of a group health plan to maintain its status as grandfathered plan under the ACA (e.g., certain increases in cost sharing or decreases in employer contribution rate may cause a loss of grandfathered status). It is important to understand if a change will cause the plan to lose grandfathered status as that may mean other substantive changes are needed to bring the plan into compliance with the ACA requirements for non-grandfathered plans.

✓ **Consider and Address Impact on Cafeteria Plan/ Enrollment Elections:** If the change results in a significant increase or decrease in the cost of coverage, a significant coverage curtailment, or other qualifying event, then it may open up the ability for participants to make midyear election changes to their pre-tax elections under the cafeteria plan to add or drop coverage, change coverage options or the like. Other employer or employee action may also provide an election change opportunity under IRS cafeteria plan regulations.

✓ **Review Service/Vendor Agreements for and Make Any Necessary Changes:** Plan changes can require adjustments to these agreements, such as TPA/ASO/stop-loss contracts or vendor agreements relating to specialty pharmacy. It is important that these changes are made in a timely fashion and that all parties are on the same page. For example, an employer does not want to make a change that the stop-loss carrier needs to approve but is not made aware of it and risk the employer losing the benefit of stop-loss.

Cont'd.

✓ **Confirm or Revise Content of Other Plan or Employer Items for Consistency and Notify All Affected Parties:** Plan changes may affect the content of other items such as the employee handbook and internal HR procedures. These items should be consistent to ensure the plan is administered correctly and participants do not receive conflicting information. Employers should revise their leave policies, employee handbook, internal HR procedures etc. as needed to ensure consistency. All affected parties need to be made aware of plan changes and that can include the employer's own internal departments, such as payroll, IT etc.

✓ **Address Other Considerations Raised Based on Employer Characteristics:** Certain employers, such as those with union employees and those who are government contractors, may have additional compliance considerations and obligations. For example, an employer with union employees will need to ensure the collective bargaining agreement permits the intended change and may need to discuss matters with applicable union representation. Government contractors, on the other hand, need to consider how the changes may impact their compliance with the Service Contract Act.

The above is a list of initial considerations-certainly other items might be required depending on the plan particulars, participant population and demographics (e.g., fully insured plans need to check state and local law requirements).

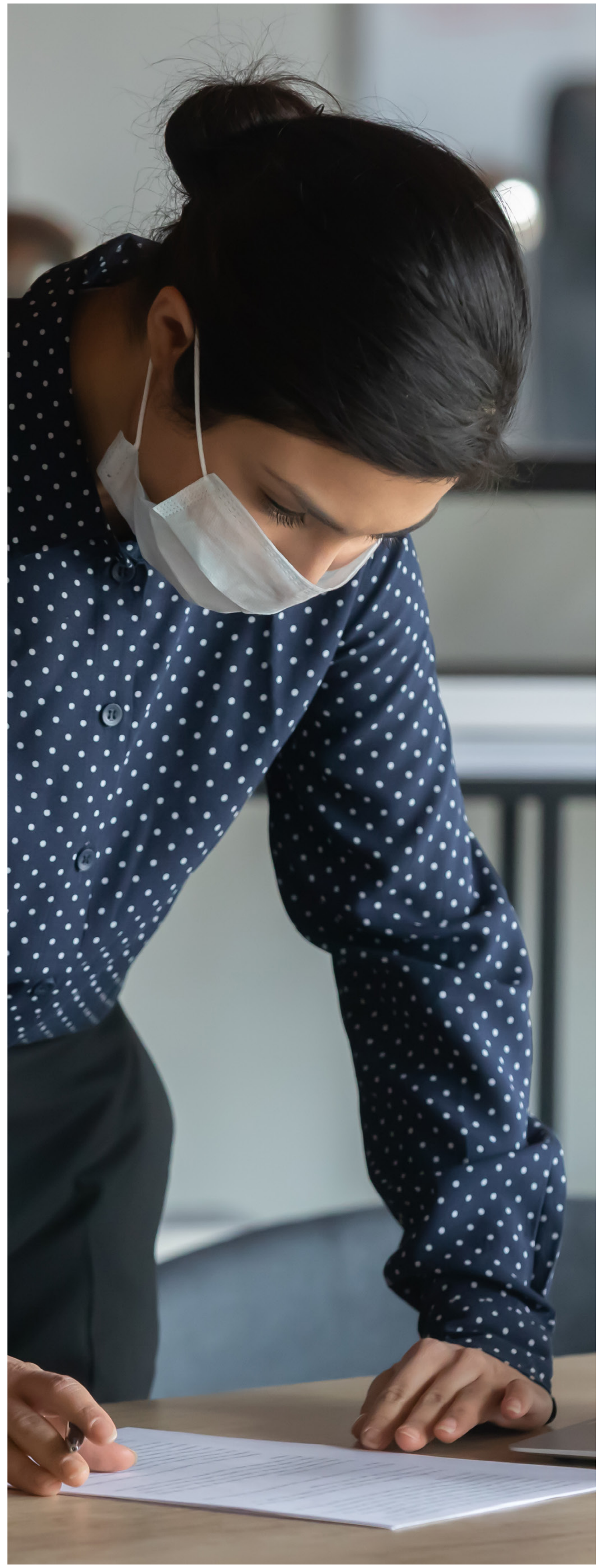
This article originally appeared in HR Professionals Magazine in November 2020.
For your free digital subscription, visit www.hrprofessionalsmagazine.com.

Anne E. Hensley, JD, ARM

McGriff Employee Benefits
Compliance Practice Leader

Stacey Stewart, JD

McGriff Employee Benefits
Compliance Officer



Think HR

Join the McGriff-Sponsored ThinkHR Demo!

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

Join us on **December 15, 2020 at 2:00pm EST** for a brief overview of ThinkHR and its benefits available to you as a client of McGriff. Click HERE to register!