

Benefit Insights

Cancer Tops List of Disability Claims - Keep These Workers on Board with Your Workplace Policies

For the seventh year in a row, cancer ranks as the leading cause of long-term disability claims, according to an annual review of claims by disability insurer Unum. With nearly 1.5 million new cancer diagnoses expected in 2008, according to the American Cancer Society, and survival rates increasing, cancer-related disabilities are sure to continue to rise, making it imperative that employers implement policies that encourage workforce participation by employees with the disease.



The American Cancer Society reports that the five-year relative survival rate for all cancers diagnosed between 1996 and 2003 was 66%, up from the 50% rate seen during part of the 1970s. Screenings that detect various types of cancers at earlier, more treatable stages, and improvements in treatments account for this gain. Higher survival rates mean that a cancer diagnosis does not necessarily carry the meaning it once did. Unum characterizes cancer survival rates as more similar to levels seen with serious chronic conditions, rather than those associated with a terminal illness.

Consequently, more and more individuals diagnosed with cancer are benefiting from treatment options and staying connected to the workforce, albeit sometimes with periods of time off work while undergoing treatment. This is seen in statistics reported by Unum: Between 2001 and 2005, the insurer saw a 16% increase in cancer disability claims, and in 2007 12.2% of its long-term disability claims were cancer-related (followed by 12.1% for pregnancy complications, 11% for back injuries and 9.3% for other injuries).

Though its cancer disability rates have increased, Unum also reports significant increases in the rate at which those temporarily disabled by cancer return to work: Between 2001 and 2005, the disability insurer saw a 77% overall increase in return-to-work rates in cases of short-term cancer disability, and a 24% overall increase in return-to-work rates in cases of long-term cancer disability.

Various studies demonstrate that the support shown by an employer and co-workers influences cancer patients' return to work. Factors that positively influence a return to work during and after cancer treatment include a company's and co-workers' attitude toward the cancer patient, a willingness to work out a flexible work schedule, and a willingness to negotiate the cancer patient's workload. One study published in the *Journal of Clinical Oncology*, and specific to breast cancer, found that a company's willingness to accommodate workers' breast cancer and treatment was an important factor in the studied women's decision to return to work after treatment. In that study, 82% of the cancer patients had returned to work within one year after their diagnosis, with 87% perceiving their employers as being accommodating to their cancer and treatment needs.

Your company makes a huge investment in recruiting and training qualified employees. While your support and that of co-workers means the world to a cancer patient, it also makes good business sense for your company. A willingness to implement flexible work policies for employees struggling with this disease, coupled with a sensitivity to each individual's specific needs, can engender the kind of loyalty that can motivate these temporarily disabled workers to return to work, with renewed commitment to your company, once they've officially joined the ranks of "cancer survivor."



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With Consolidated Regulations Package, Now Is the Time to Check Cafeteria Plans for Compliance

Over the past 20-plus years, the Internal Revenue Service (IRS) has issued, in dribs and drabs, regulations, notices and other guidance on Sec. 125 cafeteria plans. In proposed regulations effective in general for 2009 plan years, the IRS now has consolidated its cafeteria plan guidance, along with clarifying and elaborating on various cafeteria plan issues. The regulations are lengthy—124 pages—so in this article we highlight some of the points that are most significant for employers that offer some type of cafeteria plan.

Keep in mind that the term “cafeteria plan” can encompass arrangements as simple as premium-only plans or flexible spending accounts (FSAs), those as elaborate as choice-making plans with employer credits and a wide selection of benefits, or something in between. These requirements for cafeteria plans apply to any of these types of arrangements.

- The cafeteria plan must be in writing, and the plan must be operated in accordance with the written plan terms. The regulations specify all that must be included in the written plan document. Remember that the requirement that the plan be in writing applies to all types of cafeteria plans, even premium-only plans.
- All participants in a cafeteria plan must be employees, which the regulations define to include common-law employees, leased employees and full-time insurance salespeople. Former employees, including laid-off employees and retirees, may participate, but the plan cannot be maintained predominantly for them. Spouses and dependents may receive benefits under the cafeteria plan, but cannot “participate” in the plan. Self-employed individuals, including sole proprietors, partners, directors and 2% shareholders in Subchapter S corporations, are not considered employees and thus may not participate in a cafeteria plan, but they could sponsor a plan for employees.
- The regulations specify the kinds of benefits that can be included in a cafeteria plan. Of note—
 - If group-term life insurance is offered, employers must use Table I as the exclusive method of computing the cost of such coverage in excess of \$50,000 (which is includible in an employee’s income). This provision is effective immediately.
 - Individual health insurance premiums, as well as an employee’s or former employee’s COBRA premiums, can be paid through a cafeteria plan (but not through an FSA).
 - Among benefits defined as nonqualified (and a plan that offers nonqualified benefits is not considered a

cafeteria plan) are contributions to Archer medical savings accounts, contributions to health reimbursement arrangements, group term life insurance for spouses or dependent children, and elective deferrals to Sec. 403(b) plans.

- A change in plan year, or a short plan year (less than 12 months), is only permitted for a valid business purpose.
- Though a cafeteria plan may not provide for deferred compensation, the regulations specify certain types of plan features that are not considered deferred compensation, such as a long-term disability policy paying benefits for more than one year, certain two-year lock-in vision and dental policies, and certain advance payments for orthodontia.
- Though cafeteria plan elections generally are irrevocable (other than for changes in status or life events), the regulations permit employees to prospectively elect, revoke or change salary reduction elections for HSA contributions at any time during the plan year with respect to salary that has not become currently available at the time of the election. The regulations also permit automatic default elections for employees who fail to actively elect, and they permit new employees to make elections within 30 days of hire that are retroactive to the date of hire.
- Health FSAs may be established for limited purposes, such as an HSA-compatible limited-purpose health FSA or a post-deductible health FSA. Also, an employer can limit FSA enrollment to employees who participate in the health plan. A dependent care FSA may allow terminated employees to spend down their account through the end of the plan year. Employers can retain FSA forfeitures, use them to defray administrative expenses, or allocate them to participants.
- The regulations provide guidance on cafeteria plan non-discrimination tests, define several key terms (including highly compensated individual, 5% shareholder, key employee and compensation), and specify that nondiscrimination testing must be performed on the last day of the plan year. They also create a nondiscrimination testing safe harbor for premium-only plans.

With this consolidated package of guidance for cafeteria plans, the IRS is likely to take enforcement more seriously. Now would be a good time to go through your cafeteria plan written document and administrative procedure and check for any compliance issues.

Dental Checkups Can Screen for Oral Cancer

Everyone knows the importance of regular visits to the dentist in promoting good dental health. Those visits to the dentist, however, can have far more long-term significance than just cavity prevention. Good oral hygiene goes hand in hand with a person's overall health. Dental care is on the front lines in the early detection of a variety of medical conditions, including diabetes. Some research has associated gum disease with health problems such as heart disease, stroke, and premature birth and low birth weight.



But perhaps one of the most serious conditions that can be detected through regular dental care is oral cancer. Recent years have seen a nearly five-fold increase in the incidence of oral cancer in individuals under age 40, many of whom had no risk factors, according to information from the American Dental Association (ADA). American Cancer Society statistics show that nearly 35,000 Americans are diagnosed with oral cancer each year, and only half of these will live for more than five years. Oral cancer is as common as leukemia and claims more

victims than either melanoma or cervical cancer, yet hasn't received the kind of attention in the media as these other types of cancer.

Oral cancer can surface in the mouth, on the lips and gums, and along the throat or jaw line. Individuals certainly can and should be educated on the signs of oral cancer—a nagging mouth sore, changes in tissue color, a lump, thickening or rough spot, tenderness or numbness. Dentists, however, have the training, experience and expertise to recognize the difference between a run-of-the-mill mouth sore and one that calls for a closer examination. A dentist also would be better able to spot hidden or hard-to-see sores, lumps and patches.

During a routine checkup, the dentist should screen for oral cancer in several ways—closely examine the inside of the mouth, lips, tongue and gums for sores, patches, etc.; examine the tongue and neck for lumps; examine the jaw for any swelling; and ask the patient whether he or she has experienced any difficulty or pain in chewing, swallowing or moving the



jaw. Any suspicious areas can be examined further using a "brush test," through which cells are collected from a sore or lesion and sent to a lab for analysis. Another recently available screening tool involves a form of light technology that detects tissue abnormalities; products developed using this technology may or may not be covered under a dental plan.

Clearly, regular dental checkups can play a role in the detection of all types of oral cancer, making a dental plan that provides generous coverage for preventive services an important tool in oral cancer prevention. Whether provided as a regular benefit or on a voluntary, employee-pay-all basis, employees should know that their dental plan is about more than clean teeth and a nice smile. Communicating all that a dental plan has to offer can encourage employees to sign up for the coverage, and to motivate those who are covered to schedule regular checkups.

continued from page 4...Employers Are Investing More in Improving Employee Health, But to Mixed Employee Response

they engage in healthy behaviors, only 47% said they eat right and only 40% exercised regularly. Furthermore, cost concerns also resulted in employees sometimes not doing what was best for their health—because of cost concerns, 30% skipped going to the doctor, 27% didn't fill a prescription, and 19% stopped taking medication before a prescription ran out.

As far as employees' reaction to specific measures employers are taking, 70% supported lower health plan premiums for employees who lead healthy lifestyles, but only 46% agreed that a lower premium should be applied

in exchange for completing a health risk appraisal. An even lower percentage, 36%, agreed that companies should require a health risk appraisal in order to obtain health care coverage.

Survey data such as this underscores the reality that implementing creative, long-term health care cost containment measures will be a challenge for employers. Yet such efforts need to be pursued, because motivating employees to consistently maintain healthy behaviors will undoubtedly prove to be critical for sustained health care cost management.

Employers Are Investing More in Improving Employee Health, But to Mixed Employee Response

Employers are beginning to view employee health and productivity as a critical business investment, and many are becoming more directly involved in managing the individual health of employees, according to a survey from the HR consulting firm Hewitt Associates. However, few employees agree that their employers have a role to play in helping them to stay healthy and many question their employers' motives in becoming involved in employee health management, another Hewitt survey reports.

The survey of employers found a "fundamental shift" in how companies are viewing health care. Though immediate cost containment remains a concern, 88% of employers (up from 63% last year) said they plan to invest in longer-term solutions aimed at improving employee health and productivity. Among these solutions—

- 85% plan to invest significant resources in long-term health and productivity initiatives;
- 67% plan to use health care data and measurements to drive their organization's health care strategy; and
- 63% plan to offer incentives to motivate sustained health care behavior change.

Though employers are taking a more activist role in employee health management, expect many employees to

resist these efforts. While a majority of employees (74%) said that employers are responsible for helping employees to understand how to use their health plan, only 12% said their employers have a role to play in helping them understand how to stay healthy. This is despite virtually all employees (95%) agreeing that taking care of their health today directly impacts what they will pay out-of-pocket for health care in the future.



That employers and employees are at odds on the issue of employee health management poses a challenge for employers that are looking beyond traditional cost management techniques like cost shifting to manage their company's health plan expenditures. Compounding this challenge is that employee behavior doesn't always pave the way for long-term good health and lower costs. Though 88% of employees claimed

continued on page 3



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