

**In This Issue:****Benefits Bulletin****National Defense Authorization Act Amends Federal FMLA****I-9 Do's and Don'ts to Help you Avoid Penalties of up to \$10,000 per Employee****Education Key to Employee Satisfaction with CDHPs****Kaiser/HRET 2007 Prescription Drug Benefit Survey Results****National Defense Authorization Act Amends Federal FMLA**

On January 28, 2008, President Bush signed into law the National Defense Authorization Act (NDAA). Among other things, NDAA expands the federal Family and Medical Leave Act of 1993 (FMLA) to permit a "spouse, son, daughter, parent, or next of kin" to take up to 26 workweeks of leave to care for a "member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness."

The NDAA also permits an employee to take FMLA leave for "any qualifying exigency (as the Secretary [of Labor] shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation." By its express terms, this provision of the NDAA is not effective until the Secretary of Labor issues final regulations defining "any qualifying exigency." The DOL is expeditiously preparing such regulations. In the interim, the DOL encourages employers to provide this type of leave to qualifying employees.

I-9 Do's and Don'ts to Help you Avoid Penalties of up to \$10,000 per Employee

Poor I-9 documentation can cost you \$1,000 per worker, and knowingly hiring an illegal immigrant can result in a fine of up to \$10,000. Follow these do's and don'ts to stay in compliance and avoid discrimination claims and penalties.

1. **Do** complete the I-9 Form with an employee once he/she is officially hired, not before an offer is given. This will help to avoid excess paperwork for applicants that do not make the cut and, more importantly, companies will eliminate any claims that individuals were not hired based on their national origin or age.
2. **Do** make filling out the I-9 Form part of every employee's first day on the job. If an employee is not able to provide the proper documentation to complete the form within three days, he/she must provide a receipt indicating that he/she has applied for an authorizing document, and the employer should retain this receipt for its records. From that point on, the employee has 90 days to provide the actual document to fully complete the form.

When filling out the I-9 Form with only a receipt, write the word "receipt" under the area designated for the document title in Section 2. Once the employee provides the actual document, cross out the word "receipt" and insert the information concerning the document, initial the changes, and write down the date the changes were made.

3. **Do** complete an I-9 Form before an employee's first day on the job if the employee is hired to work for less than three days.
4. **Don't** complete I-9 Forms for independent contractors, individuals employed by an independent contractor, and people who are self-employed.
5. **Don't** knowingly hire an individual you know cannot work legally in the U.S.
6. **Do** re-verify when or if an employee's authorizing documentation expires. If the employee is unable to produce documentation outlining that he/she can remain working, he/she cannot remain employed. The only exception to this rule is that even if an employee's green card expires, he/she is still authorized to work

in the United States. However, an expired green card is not considered an authorized document when the individual is first being hired.

7. **Do** urge employees to apply for new work authorization at least 90 days prior to the current documentation's expiration date since obtaining these documents can sometimes be a slow process.
8. **Do** design a reminder system for the company so that employees with only a receipt are not forgotten and authorization documents do not expire without obtaining new documents.
9. **Do** complete a new I-9 Form for rehires who have not been with the company for three years or more.
10. **Do** record employee name changes that occur after he/she completes the I-9 Form by crossing through the old name, writing down the new name, reason for the change (example: marriage), date, and initial of the company representative that made the change. Do not delete or erase the old name.
11. **Do** contact employees immediately upon discovering that their social security number used to fill out the I-9 Form (found on List C) was reported as invalid or mismatched from the Social Security Administration (SSA). Ask that he/she presents other authorizing documentation, and also urge him/her to contact SSA to rectify the problem.
12. **Don't** keep I-9 Forms in employees' personnel files. Keep them in a folder (electronic or paper format) labeled "I-9 Forms." The information on these forms should in no way affect hiring, termination, transferring, or otherwise, and therefore should not be placed in a personnel file.
13. **Do**, in the event of an audit, provide the requested I-9 Forms to a USCIS or Department of Labor (DOL) agent within three days.
14. **Do** verify social security numbers by contacting the SSA at 1-800-772-6270 and verify up to five numbers at a time. Employers should establish a policy of verifying either all employees' social security numbers or none at all to avoid discrimination claims.
15. **Do** examine each employee's documents to make sure that they are on the list of acceptable documents and that they appear genuine.

Education Key to Employee Satisfaction with CDHPs

It is still too early to gauge the level of employee satisfaction with CDHPs, but it appears the satisfaction level varies. One reason may be that in many cases employees do not fully understand the plan before they enroll in it. For example, one employee might select a CDHP because it has the lowest monthly premium, and not because the plan is best for the care he or she may need.

- A Fidelity Investments study saw re-enrollment rates for CDHPs reach 95% - the highest of any plan type.
- However, according to Kaiser's focus group study, half of the CDHP enrollees said they would change

plans if they could, compared to a third of those in more traditional plans.

- Enrollees from the American Postal Workers Union rated CDHPs higher in terms of overall plan performance, compared to other plan enrollees.
- A recent Blue Cross Blue Shield Association study found that 73% of CDHP enrollees said they are likely or very likely to renew their current health coverage for the following year.

A key factor in employee satisfaction may be the company's ability to educate employees about the plan's attributes so that they fully understand the plan when determining what is right for them. This calls for better pre-enrollment communication to employees. Employee reaction to the adoption of a CDHP will likely be met with both skepticism and trepidation. In order to counteract these initial reactions and heighten the chances for success, employers should communicate why they are making the changes. To achieve buy-in and enthusiasm, communication regarding health care consumerism must resemble a marketing campaign more than a typical human resources information campaign.

Source: National Business Group on Health: Consumer-Directed Healthcare: The Employer Perspective

Kaiser/HRET 2007 Prescription Drug Benefit Survey Results

According to the 2007 Kaiser Family Foundation/Health Research and Educational Trust Employee Health Benefits Survey, the large majority of covered workers have a tiered prescription drug benefit that includes a copayment. The detailed statistics are as follows:

- Ninety-eight percent of covered workers in employer-sponsored plans have a prescription drug benefit.
- Ninety-one percent of covered workers have a tiered cost-sharing formula for prescription drugs. Tiers are generally classified as generic, preferred brand-name, and non-preferred brand-name. Some plans have created a fourth tier of cost sharing for lifestyle drugs or expensive biologics.
- Seventy-five percent of covered workers are enrolled in plans with either three or four tiers of cost-sharing.
- Forty-five percent of covered workers in an HDHP with a savings option are in a plan with three or four tiers of cost-sharing for prescription drugs.
- For workers covered by plans with three or four tiers of cost-sharing for prescription drugs, the large majority have copayments versus coinsurance. The average copayments are \$11 for generics, \$25 for preferred, and \$43 for non-preferred brand-name. Coinsurance levels average 21 percent for generic drugs, 26 percent for preferred and 40 percent for non-preferred brand-name.

Source: Kaiser/HRET Employee Health Benefits 2007 Annual Survey

Please contact your FAS representative for more information.