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## HEALTH ADVOCACY SERVICES HELP EMPLOYERS ADD VALUE

Since the beginning of these tough economic times, layoffs, benefit reductions and salary freezes have been the focus of a great number of employers. They have been dealing with a less engaged work force that is distracted by concerns over job security and the related loss of employer-subsidized benefits. In addition, many employers continue to struggle with the challenge of uncontrolled health care costs and, as a result, they are turning to strategies such as consumer-driven and high deductible health plans (HDHPs).

This trend of pushing more of the health insurance costs to workers will create a need for employees to take a more active role in making informed and cost-effective decisions about their health care choices during a time when benefits are becoming more complex than ever.

Health advocacy services represent a relatively small investment that can not only help employees re-engage and add value to their overall benefits offering, but can also help them navigate the complexities of the ever-changing health benefit landscape. While health advocacy services and their health plan experts have been traditionally looked at as a way to make human resources function more efficiently and effectively, they have now become a way to provide employees with additional support when they need it most and an avenue to help them navigate a health care system that can be confusing and time-consuming.

Although there are a variety of services offered, here are just a few ways that a health advocacy provider can help save time and reduce health care costs:

- » Assistance finding doctors and specialists
- » Assistance identifying low-cost health care options
- » Assistance clarifying coverage issues
- » Assistance resolving a variety of issues quickly and correctly (e.g., billing errors, grievances)
- » Support with HDHPs

Contact your health care advisor for more information on health advocacy services.

## THE SIX CATEGORIES OF FIDUCIARIES

The topic of fiduciary responsibility continues to be a misunderstood concept that tends to generate angst with plan sponsors. Much of the confusion has to do with who is a fiduciary in the first place. A plan may have one or more fiduciaries. Each of the fiduciaries may have different responsibilities and many parties serve in multiple fiduciary roles.

Here is a simplified list, along with brief definitions, of each category of fiduciary:

- » **Named Fiduciary.** This party should be named in the Plan Document and is considered the plan's primary decision-maker. This fiduciary may be either an employee of the sponsor or an independent party, that, absent delegation otherwise, has the duty to control, manage and administer the plan. Every plan must have a named fiduciary. It is not uncommon for the named fiduciary to also serve as plan administrator and trustee for a plan.
- » **Plan Administrator.** Not to be confused with pension administrator or a hired third-party administrator, this fiduciary is responsible for the plan's government filings, making required disclosures to participants, hiring service providers and fulfilling other responsibilities set forth in the Plan Document.
- » **Trustee.** The person(s) recognized as having exclusive authority and discretion over the management and control of plan assets.
- » **Investment Manager.** A fiduciary with full discretionary powers for selecting, monitoring and replacing plan investment options, as defined by ERISA section 3(38).
- » **Investment Advisor.** A limited scope ERISA 3(21) advisor who does not have explicit discretionary control over plan assets, but may exercise a certain level of influence over the operation of the plan by way of providing investment advice/monitoring services.
- » **Other Fiduciaries.** Other individuals, whose actions may dictate fiduciary status, may fall within the definitions of fiduciary under ERISA. Thus it is also important to monitor those who have a high likelihood of undertaking fiduciary actions on behalf of the plan.

In all cases, the plan sponsor retains the authority to remove and replace any fiduciary, even if he/she has delegated day-to-day responsibilities to others. As a result, the sponsor/named fiduciary retains the responsibility to monitor any persons to which he/she has delegated responsibilities on an ongoing basis.

## COMPLIANCE FAQ

**Question:** Under the Patient Protection and Affordable Care Act, as amended, what is a "grandfathered" plan?

**Answer:** A "grandfathered" plan is an individual or group plan, either self-funded or fully insured, in existence on the date that President Obama signed the Patient Protection and Affordable Care Act (PPACA) into law, March 23, 2010. A new plan that is created after March 23, 2010, is not a grandfathered plan. An existing plan that makes any significant changes after March 23, 2010, may jeopardize its grandfathered status, although there is still some gray area regarding what changes are acceptable.

At this time, it is clear that a plan will continue to be considered grandfathered if family members of employees and new employees are enrolled in the plan and the terms of the plan are consistent with those in effect on March 23, 2010. It is also clear that a plan may be renewed during the annual renewal process without changing the status from grandfathered.

However, currently unclear is to what extent plan changes will impact grandfathered status. Some industry experts believe that if an

individual or group plan changes the level of the deductible or co-insurance, then the plan is no longer grandfathered. Other industry experts also believe that plans should at least be able to make changes to conform with PPACA and other applicable laws, such as the Mental Health Parity and Addiction Equity Act regulations, and not risk grandfathered status. This will remain unclear until guidance is issued. Regulators have informally indicated they may issue guidance as early as this summer.

While grandfathered plans do not have to comply with some of the requirements under PPACA, a grandfathered plan is subject to some rules, including restrictions on annual and lifetime limits, pre-existing condition exclusion requirements and the requirement to cover adult dependent children to age 26. In addition, grandfathered plans must comply with changes for health Flexible Spending Accounts and the employer mandates. Grandfathered plans still will need to review each provision to see how the new rules may impact them. Your advisor has resources available to help with this process.

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