

QUARTERLY REVIEW

The Newsletter For Benefit Professionals

QUALITY ▪ INTEGRITY ▪ LONGEVITY

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From The Desk of the Editor

This quarter, although HSA adjustments for 2010 have been published, there has been little other regulatory activity with a substantive impact on health and welfare plans to speak of.

It appears health insurance reform (as it is now being referred to) has stalled or at least dampened other federal agencies' activities. Although one might argue that 2008 made up for it – in fact we are still tidying up all the compliance activities associated with last year's regulations.

Telling to me was the focus on adjudicating FSA expenses by the IRS official who attended last week's ECFC Symposium rather than final regulations or issuance of further guidance for non-discrimination testing. This was very disappointing to me particularly because I delayed issuing this newsletter until this week in anticipation of more from our IRS officials.

But the lull before the storm provides an excellent opportunity to focus on some educational pieces in this issue, and a few articles on health insurance reform from our perspective.◊



HEALTH SAVINGS ACCOUNTS (HSAs)		
2009	2010	Type of Coverage
Annual Contribution Limit		
\$ 3,000	\$ 3,050	Self-only Coverage
\$ 5,950	\$ 6,150	Individual with Family Coverage
\$ 1,000	\$ 1,000	Catch up contribution
Annual HDHP Out-of-Pocket Expenses cannot exceed:		
\$ 5,800	\$ 5,950	Self-only Coverage
\$11,600	\$11,900	Individual with Family Coverage
Annual HDHP Deductible cannot be less than:		
\$ 1,150	\$ 1,200	Self-only Coverage
\$ 2,300	\$ 2,400	Individual with Family Coverage

Revenue Procedure 2009-29: HSA Inflation Adjustments

IRS Revenue Procedure 2009-29 announced the inflation adjusted amounts for Health Savings Accounts and High Deductible Health Plans for 2010. This advance notice is welcome news to an employer with an HSA or an employer contemplating introducing an HSA in 2010. As the chart left indicates HSA contribution limits as well as the out of pocket expense limits and minimum deductibles for the corresponding HDHP have increased slightly over 2009 amounts. For the full text: <http://www.irs.gov/pub/irs-drop/rp-09-29.pdf>

MSP Reporting and HRAs

Trish Neely, CFCI

In the January issue of this newsletter we reported the recent determination by the Center for Medicare Services (CMS) that MSP Reporting Rules apply to HRAs. (*December Surprise: MSP Reporting Rules Apply to HRAs, pg 2.*) In earnest we set about developing business rules and procedures to begin collecting names, Social Security Numbers, ages, and the status of Medicare eligibility for all dependants of HRA participants. Then we attended a conference with CMS officials. It was immediately apparent to the audience, primarily HRA administrators, that CMS was as unsure about working with us as we were of working with them. Then came the good news - MSP reporting for HRAs would be delayed until the forth quarter of 2010 to give administrators, Medical TPAs, insurers and self-funded & self-administered plan sponsors the time needed to begin collecting the necessary

data – data that is not commonly collected for HRA programs. The officials left us with the promise they would be providing further instructions and guidance which may mean not all of the reporting elements for other health plans will be required of HRAs. Cross your fingers on this one.

In the intervening months as we have contacted clients it has become apparent where the account is tied to the health plan (not a standalone account), insurers who already collect the data for the health plan will be held responsible by our clients for reporting on behalf of both the HRA plan and the health plan.

∞

This is a sensible solution – it keeps the costs of administering the HRA program to a minimum, and limits access to and storage of personally identifiable information (PII) for participants and dependents to the absolute minimum necessary and thus decreasing the potential risk.

MSP Reporting Cont.

As HIPAA continues to up the ante on notification requirements and penalties related to privacy and security breaches, limiting access to PII along with PHI (protected health information) should be at the forefront of every business decision.

What is the point of MSP Reporting? When Congress amended the Social Security Act in 2007 and added a new reporting requirement for third party administrators and insurers of group health plans it was with the intent to cut down on perceived fraud within the Medicare and

Medicaid systems by assuring that health plans are coordinating properly with Medicare and Medicaid. Any insurer or TPA that pays and adjudicates health claims is required to report on a set schedule to the Center for Medicare Services (CMS).

Plan sponsors who self-fund and self-administer are also subject to the reporting rules. ◇

HHS must post to its website a list of every covered entity involved in the breach of 500 or more individuals.

What is a breach under HIPAA?

ARRA defines a breach as the unauthorized acquisition, access, use or disclosure of PHI which compromises the security, privacy or integrity of PHI maintained by or on behalf of a person.

A breach is **not** the unintentional acquisition by an employee or agent of the covered entity or business associate if such access was made in good faith and if such information is not further acquired, accessed, used or disclosed by such employee or agent.

HIPAA post ARRA

And you thought compliance was already challenging. . .

Trish Neely, CFCI

Does this happen in your organization . . . mention **HIPAA** and your risk managers, compliance officers and attorneys become increasingly more alert while others in your organization glaze over and tune out?

If so, now is the time for everyone to become actively engaged in understanding and enforcing HIPAA's regulations. Why? Congress recently tightened its grip on the privacy, security and integrity of PHI (protected health information) and your risk just increased exponentially.

Currently under HIPAA, it's not a requirement to notify an individual or HHS when a privacy or security incident occurs; however, effective February 17, 2010 that will change.

ARRA (American Economic Recovery and Reinvestment Act) mandates that a covered entity (plan sponsor) shall notify each employee involved, or reasonably believed to have been involved, in a breach with respect to unsecured PHI within 60 days of a breach (unless notification would impede a criminal investigation or harm national security). Where the breach involves the business associate (FBMC is the business associate of its clients), the business associate must notify the individuals and the covered entity.

The covered entity must then notify the Secretary of HHS and the news media as follows:

1. If there are 500 or more employees involved in the breach, the Secretary of HHS must be notified immediately as well as the local media for the area where the individuals reside.

HIPPA post ARRA cont.

HHS must then post to its website a list of every covered entity involved in the breach of 500 or more individuals.

2. If there fewer than 500 individuals involved, the covered entity may include the information in a “log” to be submitted to the Secretary of HHS annually.

An individual notification for every in-house breach is not necessary and goes beyond the original intent of HIPAA as well as Congress’ most recent changes.

It is important to note that an individual notification for every in-house breach is not necessary and goes beyond the original intent of HIPAA as well as Congress’ most recent changes. Inadvertent or unintentional disclosures are not deemed a breach as long as the disclosure does not lead to any further compromise. Note also, the Secretary of HHS is required by ARRA to issue further regulations sometime in August which may clarify the reporting and notification requirements.

Currently under HIPAA, only covered entities and business associates are required to take any mitigating action when health information has been breached; however, effective February 17, 2010 that will change and it is here that Congress’ more aggressive approach is best demonstrated.

ARRA requires vendors of personal health records (PHRs) and entities that offer products and services through the PHR vendors’ websites to notify individuals of breaches AND the Federal Trade Commission. The FTC is required by ARRA to issue further regulations sometime in August; however, what we know currently is that the timelines for notification that apply to covered entities and business associates also apply to these entities.

Enforcement

While the FTC will notify the Secretary of HHS, the FTC will have enforcement authority over vendors of personal health records and other entities using PHRs’ websites. The FTC will treat any breach as unfair and deceptive acts or practices in violation of the Federal Trade Commission Act.

With regard to covered entities and business associates, the Secretary of HHS may levy civil monetary penalties and the Office of Civil Rights (OCR) may refer the case to the Department of Justice for criminal prosecution. In addition ARRA also authorizes state attorneys general to bring a civil action in federal district court.



Web Enhancements

Patrick Peters, CFC

The corporate website www.FBMC.com has been updated to reflect the pertinent information relative to Health Care Reform.

Clients and customers alike can visit our home page for current information on the healthcare reform effort.

There are helpful links to powerful Senate and House committees, a link to the Employer's Council on Flexible Compensation (ECFC) website as well as a new site sponsored by ECFC called "Save Flexible Spending Plans".

We have included links along with instructions for sending emails to members of the House Ways and Means, the Senate HELP and the Senate Finance Committees. The link includes a model letter that FBMC sent to members of Congress. ♦

Penalties

1. Civil Monetary Penalties (CMPs)
\$100 - \$50,000/violation
\$25,000 - \$1,500,000 for similar violations in same calendar year

CMPs will be applied using four tiers based upon the level of culpability ranging from no knowledge of the violation at the low end to willful neglect at the high end of the penalty.

2. Criminal Penalties
Fines up to \$250,000
Up to 10 years in prison

In addition, OCR may impose CMPs for any criminal act that the Department of Justice does not prosecute.

3. Civil Action in Federal Court
Up to \$100/violation
Up to \$25,000/violation for similar violations in same calendar year

State Attorneys General may bring a civil action in federal district court.

New Requirements for Business Associates

ARRA applies the same privacy and security standards to Business Associates as it applies to covered entities, as well as the same civil and criminal penalties to those Business Associates who violate the security standards.

As FBMC's Privacy Officer I made the decision in 2003 that FBMC would operate as if the Privacy and Security rules applied to us even though we were not (and are not) a covered entity as that term is defined by HIPAA. We have duly appointed Privacy and Security Officers in place, early on we adopted administrative, physical and technical safeguards, and we conduct annual audits to assure compliance. ARRA requires all covered entities and business associates to assign all of its security responsibilities to its security official. In October of 2008 we appointed Kedra Baumgardner our then AVP of Corporate Governance to a new position, AVP of Information Security. As such, Kedra is responsible for HIPAA Security as part of her broader responsibilities of implementing ISO 27000 standards to drive all policies, practices, and procedures related to privacy and security. ♦

IRS Answers Questions on Expense Eligibility

Muriel Etienne, CFC



A representative from the Income Tax and Accounting department of the Internal Revenue Service was present at last week's ECFC Symposium to provide prepared *informal non-binding* remarks and answers to questions related to authorizing for payment dependent care and medical FSA expenses.

Dependent Care Expenses

Only the custodial parent can be reimbursed as stated in sections 152E. The custodial parent is considered the parent with whom the "dependent" spends the most nights during a plan year. Thus in a joint custody situation,

where it is sometimes difficult to determine who gets to claim the child, this is one method for parents to use.

The IRS official reiterated that Kindergarten is no longer (has not been for a while now) an eligible expense since most if not all school districts have made the curriculums largely educational. This is the case even if a child is attending a summer kindergarten program in order to be better prepared for kindergarten during the school year.

In the case where the type of schooling makes it difficult to determine pre-school from kindergarten (i.e. home school, Montessori school) additional facts may be needed. The child's age and nature of the curriculum can be used to determine if the child is in kindergarten or not.

Specialty summer camps are eligible expenses assuming the camp is primarily for care and there is no separate expense allocated for the activity portion of the camp.

Hold the spot day care fees may be treated as indirect fees and are eligible for reimbursement from an FSA.

Medical Care Expenses

Concierge service fees are not eligible expenses as they are not for medical care but in fact for greater access to the doctor.

Tuition to a special school should be limited to schools with a function to teach a skill which will mitigate a medical condition such as sign language or brail. Expenses for special accommodation or special programs within a school may be eligible as long as the expenses are clearly allocated. Schools which teach skills to cope, mitigate, or compensate for a specific disability would be eligible. ♦

Hold the spot day care fees may be treated as indirect fees and are eligible for reimbursement from an FSA.

Concierge service fees are not eligible expenses

H1N1 Lessons Learned

Kedra Baumgardner, AVP Information Security
Emergency Management Coordinator

Over the weekend of April 25, 2009, news organizations began reporting a “swine flu” outbreak in Mexico - it started small. Within 30 days, the less than 100 cases reported in only two countries, the United States and Mexico ballooned to 14,000 cases across 48 countries. With 95 deaths the flu was now big news, and potentially a big problem. As the news reports rolled in, I realized this was not going to be something that went quietly into the night and in reviewing our emergency management plan I immediately could see that events were not occurring in the order we suspected.

In late March as part of our annual emergency management test our management team participated in a table-top Avian flu exercise based upon the World Health Organization (WHO) pandemic phases. Those first days after April 25th were so eerily similar to our exercise, that we initially felt adequately prepared.

But **H1N1** (as the flu became known) didn’t happen the way all the pandemic models had predicted or according to our table top simulation and our checklist of activities. Within four days the WHO announced we were already at Level 5 of its pandemic phases.

My first action step was to send an information/education alert email to our Senior Management Team immediately followed by a similar message to all of our employees. Along with some basic facts about the current situation, I included information about the signs and symptoms of the flu, and how to prevent spread. I attached the CDC publication titled “Stopping the Spread of Germs at Work.”

Our AVP of Human Resources and I established an employee travel log so that we would know where our employees had been or were going. We implemented a temporary travel policy which prohibited travel to Mexico, and a temporary return to work policy which set up parameters for at-home quarantines and requirements for returning to the office. Since not all of our employees work in our home office in Tallahassee, FL, we began to track the affected states where our employees reside.

Within two days of the initial alerts, I presented a briefing to Senior Management which included additional information from the WHO, a rundown of employee travel and potential illness. We had two employees who were scheduled to travel to Mexico, 1 employee



H1N1 didn't happen the way all the pandemic models had predicted or according to our table top simulation . . .

H1N1 Lessons Learned cont.

Our “work-at-home” plan will be a critical component if the pandemic begins to create the absenteeism rates that are predicted.

From the CDC Web site

Total U.S. Novel H1N1 Flu Hospitalizations and Deaths		
Posted July 31, 2009, 11:00 AM ET		
Data reported to CDC by July 30, 2009, 11:00 AM ET		
Reporting States and Territories*	Hospitalized Cases	Deaths
47	5,514	353

who was home sick with the flu and being tested (turned out negative), one employee returning from Italy, and several employees headed for Europe within weeks.

I created a response team that would coordinate our actions going forward. The response team members included our Human Resources AVP, Facilities Manager, IT Services Manager, the Chief Operations Officer and the VP of Client Services, with me serving as Coordinator. The team initially met every 2-3 days since information was changing so rapidly. Items we discussed during these meetings included:

- Continued communications to employees to keep them informed and keep them productive.
- Whether or not to distribute our on-hand supply of masks and gloves to all employees. We decided against this, and instead provided them to employees traveling on business.
- When to stock up on hand sanitizer, masks and gloves. We decided to order a starter supply to supplement our on-hand inventory. These were harder to get than we expected.
- When to send out an Operations Bulletin to our clients. Since all operations were normal, we decided not to send out anything.
- When to implement more frequent cleaning of public areas. Early on, we did implement frequent cleaning of door handles, stairwell rails, elevator buttons and other areas where hands could spread the disease.

Throughout, I continued to send regular email updates to Senior Management; my strategy for sharing information was on two levels: **Big Picture** and **On The Home Front**. Big Picture gave information on the world and U.S. situation; On The Home Front focused on what was happening at FBMC and in the locations where our employees live or must travel.

Although the WHO raised its pandemic level to 6, some things we expected to happen just never did. There were no global quarantines and border closures, no mass casualties and no large numbers of absenteeism. This was the best kind of pandemic - one that was somewhat mild, allowed us to test our plan and figure out what we needed to change in order to better respond.

H1N1 Lessons Learned cont.

By all accounts it's not over yet and we will use the lessons learned to help us this fall and next spring and beyond.

- ✓ We learned it doesn't really matter whether it's bird flu or swine flu; we need a **pandemic flu** plan to guide our response.
- ✓ We learned that it was pretty much "business as usual" for us even though the WHO levels were being raised. Thus, for future events we will use the same emergency levels that we use for other types of events instead of mapping to the WHO phases. Our emergency levels are determined by us based on the impact the event is having on our operations, our employees, our clients or our customers.
- ✓ We learned a temporary return to work policy was smarter than the travel log. Although we had intended to quarantine staff based upon the log, we learned quickly that our employees travel considerably for business and pleasure; the travel log quickly became unmanageable. The return to work policy allowed us to quarantine based on a set of criteria rather than travel destination.
- ✓ We learned that tracking states where remote employees live was useless since most states were ultimately affected. Our communication to all employees regardless of location became: **stay home if you're sick, stay away from people who appear sick, wash your hands and cover your mouth.**
- ✓ We learned that although we did a good job of communicating to our employees, we could do better. Next time around we will make better use of our intranet as a central location to post information and provide updates.

This was the best kind of pandemic - one that was somewhat mild, allowed us to test our plan and figure out what we needed to change in order to better respond.



Looking Ahead

Most experts think we haven't seen the last of the H1N1 flu. Although somewhat dormant right now in the U.S., how H1N1 behaves during the Southern Hemisphere's flu season could be a predictor of how it will behave when our flu season starts in September. The good news is that because of the mild presence of H1N1, a vaccine is being developed and supplies are not expected to be limited.

For us we are sponsoring vaccinations at our facility for our employees and assuring an adequate supply of masks, gloves and sanitizers before the September flu season starts. And more importantly we are battle-testing our "work-at-home" plan which will be a critical component if the pandemic begins to create the absenteeism rates that are predicted. ♦

Health Care - It Costs Too Much To Keep Doing It Wrong

Charlie Barger, AVP
Self Funded Division

When it comes to major issues in our personal and business lives, it is hard to accept the fact that we have been making wrong decisions, or that we may have been given misinformation for years that we have not only accepted, but also paid for. But that is exactly what has happened to many employers when it comes to employer-sponsored medical plans.



Sometimes it's due to lack of knowledge or naivety on the part of the employer or the employer's advisors; other times to the fact that consultants or providers upon whom the employer relies do not have the same objectives in terms of saving money and/or achieving quality outcomes.

There is not an employer who sponsors a medical plan for its employees that doesn't want to be able to manage the cost and make sure the plan offers a true benefit. Yet too often the employer hands its employees an SPD (summary plan description), an ID card and a *blank check* while saying, "Here is your plan, go and use it". It is no different than handing a 16 year old the keys to a car before he/she has had any training or education and saying, "Here is the car, go drive it."

Just as having a discount chain of body shops and repair shops won't manage the costs of a teenager's driving experience, having a discount arrangement for medical services and supplies won't manage the cost of a corporate medical plan. Having "the best discounts available in the state" is great but wouldn't it be better to manage and perhaps avoid the expenses to begin with?

As Congress and the President are discovering healthcare is much more complex than an analogy to a sixteen year old just beginning to drive and it most assuredly is a far more expensive proposition. Despite what happens in Washington over the next six months, there are some steps you can take to control your costs.



Consider carefully how you are being charged for the processing of claims.

The traditional method of paying for claims administration is through something most insurance carriers call a "retention factor." That is, there is a formula that says a certain percentage of the dollars paid into a plan is credited to administrative costs, profit margins, commissions, etc. This means when there is a

Healthcare cont.

rate increase, this factor is automatically increased proportionately. The rate increase may come as a result of one or two large claims, but it is unlikely that the administrative expense has increased by the same factor as your contributions.

Fixed fees that vary only with an increase in the cost of doing business make much more sense and are clearly more favorable to managing costs.

If you don't know where you are or where you are going any road will take you there.

With medical plans, an employer often doesn't know the current condition of its workforce. Just as I can't have a car repaired economically and logically without diagnostics, I can't have a reasonable medical program without them either.

The key component that allows employers to become aware of the "health" of their entire risk group is a Health Risk Assessment. It's a tool that is comparatively economical and provides a key for areas of concern. The plan participant is given an overview of his/her risk, and an improvement plan that educates and supports the actions that need to be taken. This is followed with management of high risk persons with identified conditions to assure compliance with treatment programs. Cost is reduced and quality of life is improved. A win-win for employer and employee.

The assessment process facilitates predictive studies that can help prevent future claims and also assist in plan design for claims management.

Drug costs are out of hand and I don't know why.

This is a somewhat difficult area since it is impacted by both the supply side and the consumer side. There are numerous ways for PBMs (The pharmacy networks that are charged with the task of saving the plan money.) to establish revenue streams at the expense of the client. A few of the more common ways are retaining discount spreads between negotiated fee schedules and those given to the client, rebates paid by drug manufacturers for "increasing market share" through formularies and other methods, and last, increasing the wholesale price of a drug through repackaging.



Off label:

The question that comes with using these drugs is whether they actually cure the disease, enhance the quality of life, or simply prolong for a short term the inevitable outcome. This is certainly a question most of us don't want to be responsible to answer.

Healthcare cont.

These increasing cost factors don't consider the wave of injectables and bio-drugs that are becoming more prevalent. They are the most expensive on the market (some exceed \$20,000 per month) and there are, at this time, at least 300 new ones that are awaiting approval from the FDA. "Off Label" use of drugs, or a combination of approved drugs used in an experimental manner are increasingly more prevalent, expensive and seldom effective. The question that comes with using these drugs is whether they actually cure the disease, enhance the quality of life, or simply prolong for a short term the inevitable outcome. This is certainly a question most of us don't want to be responsible to answer.

Another question is whether these expensive drugs are to be paid through the drug benefit or the medical portion of the plan. What is available for disease management and education that will make their use most cost effective with acceptable efficacy? Other concerns are the general compliance by consumers with taking drugs as prescribed as well as the problems Mail Order services bring with more than 30 days of medication that end up not being the correct or most effective drug.

Direct medical expenses are the least expensive costs of a claim.

Many studies have been done on the total cost of a medical claim and the conclusions continue to be that the direct cost of medical care is often less than the indirect costs. These expenses such as loss of productivity, wages, etc. generally translate to more than 50% of the total expense of an illness or accident. This is a component that relates to the ability to educate, communicate and support in order to get claimants more compliant and focused on prevention and lifestyle changes.

How can I get the clinical and administrative functions working together for my plan?

There is absolutely no doubt there is a total disconnect between the clinical and administrative functions. Clinical is concerned with prevention and curing, while traditional administration is concerned with the transactional piece: *how many claims can I pay in a day, how fast and how correct?*

The administrative process is a necessary evil and major irritant to the medical profession in general. It squeezes them for discounts, but also assures they get paid for services.

It may be financially feasible to recruit a local physician and nurse to come to the worksite for a period of time each week to see both employees and dependents with no deductibles or copays and no charge back to the plan.



Healthcare cont.

There are **BILLIONS** of dollars lost in employee/employer productivity each year while waiting in doctor's offices for five minutes of face time and care time with the doc. How about a paradigm shift regarding the location of care? For employers with at least 80 employees, it may be financially feasible to recruit a local physician and nurse to come to the worksite for a period of time each week to see both employees and dependents with no deductibles or copays and no charge back to the plan.

Encounter sheets are kept on each visit in order to facilitate a comparison to community costs and to provide an actual ROI for the plan. Time away from the worksite is reduced to an average of 20 minutes so that productivity is increased as well as employee satisfaction.

It is my plan, so why can't I get all my information whenever I want it?

It has never made sense that employers spend such large amounts of money on a program, yet are at the mercy of their service providers when it comes to understanding the financials and receiving access to utilization figures. We have been there - we left a highly rated HMO several years for this very reason. This is not a HIPAA issue – employers want aggregated data not individual results.

Some employers receive a letter at year end with a couple of figures to justify a rate increase with no interim feedback on utilization problem areas. A successful Employer would never permit a department to operate for a year with a budget the size of a medical plan without some accountability – why permit a vendor to do so?

Accordingly, employers should have access to their financial and claim information 24 hours a day for monitoring and planning purposes. Individual participants should have their data available as well in order to know the status of claims and their individual plan accumulators. Anything less makes no sense for a company who is concerned about relative value and financial accountability of programs and departments.

We have reached a point where the thinking that got us into this dilemma is clearly not the thinking that will get us out. While Congress and the Obama Administration tackle health care reform from the broader perspective, you as an employer can begin

Expenses such as loss of productivity and wages generally translate to more than 50% of the total expense of an illness or accident



Healthcare cont.

embracing and adopting changes that will help you better measure and manage your programs along with incentives to engage your employees in wellness programs to help encourage better life style choices. Each little change adds up and helps the bottom line.

Methods are available that make sense, but may appear to defy conventional wisdom. Employers owe it to themselves to look at the options. To continue this dialog, email cbarger@fbmc.com. ♦

We have reached a point where the thinking that got us into this dilemma is clearly not the thinking that will get us out.

Stop Tinkering With Tax Favored Accounts

Kim Farris, Vice President

As I am sure you know by our emails and phone calls to you, we are not sitting on the sidelines



waiting for health care reform. We participate in weekly briefings with our industry lobbying firm, we are actively engaged in monitoring the key Congressional committees' activities (HELP, Ways & Means, and Finance) and we have shared our concerns with the Senators and Representatives of

those three Committees. We felt it was essential to dispel any myths that TFAs are only for the wealthy, or that capping or eliminating would have little to no impact on the general population or on employers. In 2008 \$223 million in contributions flowed through our client's health reimbursement accounts (HRAs), and dependent care & medical flexible spending arrangements (FSAs). The participants are for the most part average Joes and Janes – or so non-discrimination testing results would indicate.

That \$223 million translates into a minimum of \$50 million in tax savings for the participants and \$17 million for employers in matching FICA savings. It's accurate to say that tinkering will result in tax increases all around. If the committees' determine that they must cap, and the lobbyists are telling us capping is a real possibility, then looking at average account contributions rather than pulling numbers out of the air makes more sense. Thus we and our industry peers consolidated and aggregated our data and provided this to the committees. The chart below shows FBMC's averages for 2008. I also included some other information I thought you might find of value for planning purposes. ♦

FBMC 2008 Facts on Tax Favored Accounts

Average MFSA contribution	\$1,250
Average HRA contribution	\$2,284
Average DFSA contribution	<u>\$3,120</u>
Combined	\$2,218
Average MFSA claims (per participant)	8
Average DFSA claims (per participant)	10
Average MFSA participant forfeiture	\$40.88
Average DFSA participant forfeiture	\$44.09

Bill Analysis Available

The **American Affordable Health Choices Act** would mandate health insurance for everyone. This is the bill that the House Committees on Education and Labor, Ways and Means, and Energy and Commerce have worked together to develop for health care reform. Despite concerns from members, pundits, and the general population, many have signed on in support of the bill, including AARP.

A well written analysis of the Act, including the insurance exchange, Medicare payment reforms, and the impact on insurance coverages and doctors and hospitals, is available from the Lewin Group in case you want to read further and contact your House membership before they re-adjourn in September to finalize their bill.

<http://documents.nam.org/hrp/LewinHouseBillAnalysis090720.pdf>

The tax savings has grown until it's now an irresistible pot of gold to committee members struggling to crunch the numbers on reform and coming up short

Saving Café Plans and Tax Favored Accounts

Muriel Etienne, CFC
Trish Neely, CFCI

On Tuesday 7/14/2009 Employers Council on Flexible Compensation (ECFC, our industry champion and lobbying arm) launched www.SaveMyFlexPlan.com to help combat proposals in the Senate and House to cap or eliminate tax exclusions. The following week www.FBMC.com was updated to both link and support the ECFC effort.

As we reported in our recent Benefits Alerts, billions of dollars are saved annually in taxes by employers and employees alike using Café plans and various tax favored accounts. These are IRS approved methods to pay for health and dependent care expenses on a tax-free basis. Because of their increasing popularity through the years, the tax savings has grown until it's now an irresistible pot of gold to committee members struggling to crunch the numbers on reform and coming up short.

Both websites provide a tremendous amount of information and many tools that can be used to contact your members of Congress and ask them to preserve these accounts.

What can/should you do?

- ✓ Conduct meetings to educate your employees on the benefits of tax savings. Remember the old hidden paychecks we used during enrollments? Might be time to brush them off and update them.
- ✓ Human interest stories to your news media on ways your benefit program has improved for your employees as a result of their tax savings and your matching FICA savings. Many of our clients have used their tax savings and experience gains to fund wellness programs or decrease the cost of premiums.
- ✓ Encourage your employees to contact their Senators and Representatives and express their views. Through the years we have heard testimonials from employees that cite their ability to purchase more benefits because of the tax savings. This is powerful information and Congress needs to hear this from the grass roots and not just from big business or employer groups.



Saving Café Plans and Tax Favored Accounts cont.

- ✓ Get friends and family involved- use your network to widen the circle of influence and help in the fight.
- ✓ Work with other local organizations to coordinate lobbying efforts, such as your local SHRM chapters

Using the ECFC www.SaveMyFlexPlan.com Site

The “Action Center” located on the right side of the web site contains a list of links that will take you to the various interactive tools available.

Action Center links include:

- **E-mail your member of congress** allows you to use a form with pre-entered text to create a personalized e-mail which can be sent directly from the site.
- **Call your member of congress** assists you in locating the correct congress member based on your location and connects you FREE! You simply complete a form with your demographic information and the site will identify your Senators. Once the Senator is identified you can click the “Call Now” button and you will receive a call at the number provided and get connected directly with your Senator’s office, for FREE.
- **Sign up for updates.** Simply enter your contact information to sign up for the mailing list to receive periodic updates.
- **Tell a friend** allows you to forward a link to the web site to several friends by filling out a short form.
- **Add us to your website** provides code to which can be inserted into the HTML of your web page where you want the web sticker to display.
- **Join us on Facebook** allows you to become a “Fan” on the ECFC facebook page
- **Follow up on Twitter** once added to your twitter account provides access to minute by minute updates as they are released.
- **Watch us on YouTube** provides short informative videos of ECFC officials and members in action



***Get friends and family involved-
use your network to widen the
circle of influence and help in the
fight***

Social Networking Can Increase Employer's Risk

Chet Hall, Chief Information Officer



Do you know how social networking tools such as **YouTube**, **FaceBook** and **Twitter** are being used by your employees? This may or may not be on your radar screen, but it is a growing problem. If you have employees and you have internet access in your office, then you likely have someone using some type of social networking - it is almost impossible to stop. What is the risk and what can you do to reduce your organization's risk?

Many organizations use social networks to communicate ideas and to conduct business. The good news is that social networks are an open book to the world and what is published can be seen by almost anyone. The bad news is that social networks are an open book to the world and can be seen by almost anyone.

The risk comes when you do not or cannot control what is being communicated to these social networks from your employees.

People use social networks to publish "funny stuff" or "just to vent" to attract internet users to their webpage. The details of medical conditions can certainly fall in the funny stuff category; and a bad day with a customer or boss can create a need for an employee to "vent". If what makes its way to YouTube comes from your unhappy or disgruntled employee you may be faced with a breach of confidential data, or potential charges of slander or libel, and a host of other risks that just imagining them may cause insomnia. To the far right are some concerning facts from a recent 2009 Deloitte survey.→

Social networking tools can be of value to businesses but it is important to find the right balance to minimize risk.

We have security policies in place and have taken steps to manage the use of social media and other internet use at FBMC. If you want a place to start, I recommend beginning with a written policy.

Some education and training is certainly in order to reach that "53%" who don't think their social networking activities are their employer's concern. ♦

- 5% of employees surveyed indicated that they access their social media sites for personal use while at work
- 53% of employees believed their social networking pages are not an employer's concern
- 63% of 18-34 year olds asserted that employers have no business monitoring their online activity
- 27% of employees surveyed don't consider the ethical consequences of posting comments, photos, or videos online
- More than one-third don't consider how their actions would be perceived by their boss, their colleagues, or a customer



FBMC
Quality Integrity Longevity

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