



MID AMERICAN GROUP

"The Leading Edge"

A quarterly Newsletter to our valued friends and clients...

Autumn, 2002

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The Leading Edge

...a trend-setting employee benefits program from Mid American Group, including:

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The information contained in this publication is intended for the general information of our clients. It should not be construed as legal advice or legal opinion regarding any specific or factual situation.

COBRA AND THE TRADE ACT OF 2002

The Trade Act of 2002 is the law that gives the president "fast track" trade negotiating authority. It furthers the scope and extends the deadlines contained in the Trade Act of 1974. The 2002 version of the Act provides tax relief for workers to pay for COBRA and similar types of coverage.

The Trade Act provides benefits to workers who lost their jobs due to import competition or shifts of production to other countries. The benefits are known as trade adjustment assistance (TAA). TAA would have expired as of September 30, 2001 had the provisions not been extended by the 2002 law.

The new law also provides the tax relief via premium subsidy to workers whose pension plans were taken over by the Pension Benefit Guaranty Corporation.

The Trade Act of 2002 creates a new code section that authorizes an eligible individual to take a federal income tax credit for up to 65% of the premiums for COBRA coverage. The tax credit starts in December 2002, 90 days after the date of enactment of the law.

The tax credit is available on a month-by-month basis for each month during which the following conditions are met:

- The taxpayer is an eligible individual
- The taxpayer is paying premiums for qualified health insurance
- The taxpayer and family members do not have other specified coverage; and
- The taxpayer is not in prison.

An individual is eligible for the tax credit if they are eligible for trade adjustment assistance (TAA). To be qualified for TAA, the government must provide certification. Alternatively, an individual may be eligible if they are at least 55 years old and they are receiving pension benefits paid by the Pension Benefit Guaranty Corporation.

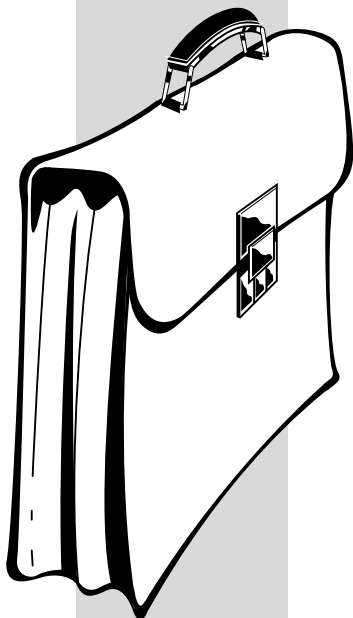
The credit is available for qualified health insurance. COBRA coverage and state-level continuation coverages are qualified plans. Flexible spending accounts, Medical Savings Accounts and HIPAA excepted benefits are not considered to be qualified health insurance. Coverage purchased or provided under Medicare or Medicaid cannot be used for the tax credit.

Employers feared that they would have to determine who was eligible for the credit and advance corporate funds to pay the entire premium. Then, they'd have to obtain a refund from the government in the amount of the credit. As a result of these concerns, the law delays the requirement for an advance credit until August 1, 2003. The Treasury Department has until that date to establish a program for making direct payments to insurance providers.

There is no government program without corresponding red tape. Employers will be required to file information returns listing participants eligible for the advance credit, the amount of the credit and other relevant information.

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News Briefs



EMPLOYEES IN FOREIGN LANDS POSE HEALTH PLAN PROBLEMS

Employees assigned to foreign countries pose health plan problems for employers. **The network-based plan available to U.S. based employees is not sufficient for the expatriate or “expat.”** Not only are the providers in the foreign country largely unknown, but language can be a problem. A medication may go by one name in the U.S. and a different name in the foreign country. Some service providers allow an employee to enter the name of a medication and find out the local name for the prescription in the country that they will be going to.

Benefits for “expats” are typically generous. Often, the benefits must be tailored to the particular traits of the health care market in the country. For example, some countries bill physician services through the hospital bill. Also, transportation to another country may be needed.

Employers faced with employees in overseas locations should seek out expertise in international coverage. There are several insurers that provide coverage for expatriate employees.

401(K) PLANS IN A BEAR MARKET

Many employees are afraid to look at the statements for their 401(k) plans. 401(k) losses totaled \$101 billion in 2001. **This was the second year of shrinkage of 401(k) assets.**

Despite these staggering losses, experts are advising employees to stay the course. They are recommending that employees review how their funds are invested. Depending on someone’s age and their targeted retirement age, a new investment strategy may be required.

TAILOR-MADE HEALTH PLANS

Employers and insurers are beginning to offer customized health plans to employees. Some plans now allow employees to choose among coverage levels, costs and copayments.

The jury is still out on whether these types of plans will save employers and employees money. **Key to a successful program will be how well employees**

understand the choices that are available – and, if they make any changes to their plans.

Employees can often decide on additional coverage for allergy treatment, mental health care and the like. However, the fact that they have options may also result in choices that are made and later regretted.

Another factor that must be considered is whether the choices allow adverse selection to occur. If the healthiest members scale back coverage, then the remaining employees will be those who are likely to have more costly medical problems. As more firms gain an understanding of the dynamics of tailor-made plans, the safeguards that will minimize adverse selection should be more understood.

PART-TIMERS AND BENEFITS

The numbers of employers offering benefits to part-time employees continues to increase. The most common types of benefits provided to part-time workers are paid holidays and paid vacations. Office workers tended to receive prorated benefits for part-time work more often than plant employees.

Health and life insurance, both coveted benefits, continue to elude most part-time employees. According to a survey by *Business & Legal Reports*, only 20% of employers provide life insurance benefits for part-time office employees. Twenty-four percent of part-time office employees can qualify for health insurance benefits.

Part-timers in a manufacturing environment fare worse. Only 17% of employers offer health benefits to their part-time employees. Life insurance was offered by only 14% of employers.

BUSH WANTS HIGHER 401(K) LIMITS

President Bush may propose higher maximum annual salary deferrals as part of a tax cut package. Accelerating the 401(k) contribution limits is one of the possible proposals. Since the Congressional Budget Office recently released a report that shows a dramatic increase in deficit spending, the reaction by Congress will be lukewarm, at best.

COBRA *continued from page 1*

The new trade act also requires a second COBRA election period for workers who become eligible for TAA. The second election period applies if the individual is:

- Eligible for trade adjustment assistance (TAA)
- Lost group health coverage due to a job loss that resulted in eligibility for TAA
- Failed to elect COBRA during the regular COBRA election period that was triggered by the job loss.

The new 60 day election period begins on the first day of the month in which the worker became eligible for TAA. But, the election must be made within six months after the initial loss of group health plan coverage.

In the event that someone elects COBRA as a result of this second election period, employers are not required to provide retroactive coverage for the gap period. It is unclear how to determine when coverage ends. It is presumed that coverage would end 18, 29 or 36 months after the date of the original loss of coverage.

Someone electing COBRA coverage as a result of the second election period is provided additional protections under HIPAA law. The plan may not count the time between the initial loss of coverage and the first day of the new second election period toward the 63-day break in coverage provision of HIPAA.

Therefore, such individuals will not be subject to new preexisting conditions waiting periods.

Employers can expect – and will need – government rules and guidance regarding compliance with these new provisions. Thankfully, this new law is expected to have an impact on a limited number of employers. **However, it is also seen as setting the ground rules for future expansions of a COBRA tax credit to cover workers who have lost their employment.**

Expanding COBRA coverage is likely to add to employer health cost pressures. **Claims for COBRA beneficiaries average 50% more than other plan members. Also, a recent study conducted by The Commonwealth Fund found that a subsidy only slightly larger than that enacted in the Trade Act would increase the likelihood of continuing coverage from 23% of respondents to 59%.**

SOCIAL SECURITY NUMBERS NOT BEST FOR ID

Social Security Numbers (SSN) have been around since the Social Security Act of 1935. They were intended to be used only by the Social Security Program. However, President Roosevelt signed an Executive Order in 1943 requiring that federal agencies use the number when creating new record keeping systems. The IRS began using the number as a taxpayer ID number in 1961.

The uses for this unique identifier have been expanding ever since. But, many people – in and out of government – are now questioning whether this identifier should be so ubiquitous. States are enacting laws prohibiting use of the number for specified purposes. **The State of California, a trend-setting state, has prohibited many uses of Social Security Numbers. Recently, the Deputy Commissioner of the Social Security Administration testified before a Senate committee on the need to protect the Social Security Number (SSN).**

Currently, federal law does not have restrictions on the use of the SSN by the private sector. There is a law, enacted in 1974, that prohibits a Federal, State or local government agency from withholding benefits from a person because they refuse to furnish a SSN.

The rising concern regarding use of the SSN is one of identity theft and privacy. The key to identification documents is the SSN. The Social Security Administration recommends that individuals guard their SSN

number by using the number on an “as needed” basis. They recommend that employees show their cards at the beginning of employment and then put the card in a safe place.

Employers who have considered, or are using, Social Security Numbers as a form of employee identification should consider alternatives. At a minimum, steps should be taken to ensure that such information remains confidential. After all, an ID badge or an employee file with the number displayed can easily be seen or found by an unauthorized person. Reflecting confidentiality concerns, the Social Security Administration on its official correspondence no longer shows SSNs. Instead, they show only a part of the number -- the last four digits.

Congress may take action on the use of SSNs. They are concerned regarding reports that some of the terrorists in the attacks on September 11, 2001 used fraudulently obtained SSNs to obtain identification documents. The Senate has considered legislation limiting private and public use of SSNs.

TAX RELIEF REVISIONS LAGGING

A recent survey by Diversified Investment Advisors found that more than one half of employers have not yet adopted the provisions of the Economic Growth and Tax Relief Reconciliation Act (EGTRRA). Employers must modify their plans to reflect changes in the law.

Some of the delays have been the result of a state’s failure to act on the law. States have been slow to adopt some of the provisions of the bill that will further reduce income flowing into state coffers. If a state does not comply with EGTRRA, employers and employees will face a more complicated – and costly – tax picture.



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COLLEGE SAVINGS VIA 529 PLANS

Despite the recent performance of the stock market, Section 529 College Savings Plans have been growing at a record pace. Employer sponsored plans are expected to exhibit similar growth, especially since the plans are easy to administer.

Employers will find that Section 529 plans provide the following:

- No participation requirements
- No 5500 filings
- No discrimination testing
- No Plan Documents
- No setup fees.

Any administrative charges are typically borne by the employees at the rate of \$10 to \$30 per year.

The real advantage of Section 529 Plans is that distributions from the plans are tax free as long as they're used to pay for college expenses. This

tax free benefit includes investment income earned on contributions to the plans.

Depending on the state, individuals can receive a triple bonus on the plans. These are:

- Tax deferred savings
- Tax free withdrawal of funds
- State income tax deduction.

Employers need to be careful when selecting funds to offer to employees. **Employers should offer a variety of funds including one fund offered by an employee's state of residence. It is also important to clearly communicate any and all rules regarding the plans.**

Some employers are using financial advisors to provide investment advice to employees. They believe that use of professional advisors will limit their liability and help provide more effective employee communications. The use of investment pros will add to the cost of providing a Section 529 plan.

Autumn Seminar and Luncheon 10/10/02 "Privacy and HIPAA"

To make a reservation at our complimentary seminar and luncheon, call 630-789-9508.