Employee Benefits & Workers' Comp News

MOC Insurance Services
Maroevich, O'Shea & Coghlan Insurance

Divisions of MOC Insurance Services
ARM Insurance Agency, Inc.
Farallon Associates Insurance Brokers
San Francisco Insurance Center

WWW.MOCINS.COM

101 Montgomery Street, Suite 800, San Francisco, CA 94104
Main (415) 957-0600 | License # 0589960

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Businesses Get Cited for COVID OSHA Violations

After criticism from labor unions and lawmakers that the U.S. Occupational Safety and Health Administration (OSHA) has not been adequately responding to COVID-19 pandemic concerns, the agency has been busy in September and October citing businesses for various health and safety violations.

Between Oct. 23 and Oct. 29, OSHA issued nearly $500,000 in COVID-19 citations bringing the total amount of proposed penalties against employers for failing to protect workers from coronavirus to nearly $2.5 million.

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This Just In…

Delays in obtaining medical attention during the pandemic have increased claims costs for workers with soft tissue injuries, such as low back pain, dislocation and sprain, according to a study by the Workers Compensation Inspection Rating Bureau (WCIRB) in California.

The WCIRB researchers found that workers with soft tissue injuries who had delays in receiving treatment incurred medical costs as much as 32 percent higher than those who at the same point received prompt care during non-pandemic periods.

WCIRB also found that indemnity benefits (lost wages

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Among the most recent firms cited are several grocery stores in California and health care employers in Connecticut, New Jersey and New York, all cited for "serious" violations.

The businesses were specifically cited for failure to implement written respiratory protection programs and properly train workers in the use of respiratory devices; for failure to report or record injuries, illnesses or fatalities; and failure to comply with the Occupational Safety and Health Act's general duty clause.

In its recent publications and news releases, OSHA cautions all employers to be vigilant in working to meet all OSHA requirements. The following are the most recent examples of requirements that OSHA says employers have frequently failed to follow:

- Provide a medical evaluation before a worker is fit-tested or uses a respirator.
- Perform an appropriate fit test for workers using tight fitting respirators.
- Assess the workplace to determine if COVID-19 hazards are present, or likely to be present, which will require the use of a respirator and/or other personal protective equipment (PPE).
- Establish, implement, and update a written respiratory protection program with required worksite-specific procedures.
- Provide an appropriate respirator and/or other PPE to each employee when necessary to protect the health of the employees (ensuring the respirator and/or PPE used is the correct type and size).
- Train workers to safely use respirators and/or other PPE in the workplace and retrain workers about changes in the workplace that might make previous training obsolete.
- Store respirators and other PPE properly in a way to protect them from damage, contamination, and, where applicable, deformation of the facepiece and exhalation valve.
- For any fatality that occurs within 30 days of a work-related incident, report the fatality to OSHA within eight hours of finding out about it.
- Keep required records of work-related fatalities, injuries, and illness. Employers are also encouraged to learn more about OSHA's On-Site Consultation Program, which offers no-cost and confidential occupational safety and health services to small- and medium-sized businesses.

OSHA has compiled a set of standards used in conducting COVID-19-related inspections. Employers can learn more about those standards and relevant resources in OSHA's in-depth analysis of Common COVID-19 Citations at https://www.osha.gov/SLTC/covid-19/covid-citations-guidance.pdf.

compensation) for workers with soft tissue injuries increased as much as 28 percent compared to workers who received prompt care during non-pandemic periods. During the pandemic workers were also more likely to qualify for disability payments, with 71 percent of claims involving permanent disability versus 58 percent during non-pandemic periods.

The study analyzed soft tissue work-related injuries in California between 2013 and 2017 to develop its basis of comparison.

Although the study involved only workers in California, the WCIRB research most likely reflects increased cost patterns for workers compensation cases throughout the U.S. (if not the world) during the pandemic.

Also, for more guidance on OSHA standards and how to operate safely during the pandemic visit https://www.osha.gov/Publications/OSHA3990.pdf.

What it Takes to Add Inclusion to Your Diversity Efforts

Employers have been practicing diversity in hiring for many years but are now finding that inclusion is also important. Do you know the difference?

For many years employers have taken measures to ensure their workforce is diverse. They set goals to hire a certain percentage of minorities and posted job openings to especially appeal to minorities.

Employers have since learned that diversity hiring is not enough to create an energetic, productive workforce. Inclusivity, as well as diversity, is just as important. And while diversity and inclusion might sound like the same thing, they are different.

First, diversity is about more than race. It also includes many other characteristics including national origin, ethnicity, gender, abilities, sexual preference, age, interests, background, levels of educational achievement and socioeconomic status.

Keep in mind that not all concerns about diversity are per se a violation of the law. Some concerns might just be culturally problematic. Which is why it's important to have training that focuses on respect in the workplace.

Whereas diversity is the makeup of your workforce, inclusion is about the quality of the culture in which diversity exists. Inclusion is how individuals feel they are treated by coworkers and managers. For instance: do all workers get the same promotional, mentoring, and training opportunities, as well as access to volunteer activities as other employees? True inclusion removes all barriers, discrimination and intolerance.

The bottom line is that having a diverse, talented workforce is not enough; everyone needs to be respected equally and made to feel a part of the team.

Compliance

One of the driving forces behind encouraging companies to be more diverse is federal compliance regulations concerning all aspects of employment. These include recruiting, hiring, promoting, demoting, transferring, training, terminating and employee benefits planning. Employers who have 15 or more employees must follow the guidelines set by the Equal Employment Opportunity Commission (EEOC).

Laws enforced by the EEOC include:

- Title VII of the Civil Rights Act, which protects applicants and employees against discrimination or retaliation for filing a complaint based on race, ethnicity, gender, religion, national origin, or pregnancy
- Equal Pay Act
- Age Discrimination in Employment Act

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- Americans with Disabilities Act
- Genetic Information Nondiscrimination Act.

The federal government also has regulations governing diversity practices for federal contractors.

Proactive Steps

To check how inclusive your organization is, conduct a diversity and inclusion analysis. In particular, look for these red flags:

- Lack of diversity in the workplace, including the makeup of the executive management team
- Diverse leaders who are not a part of the decision-making process
- Limited resources devoted to diversity initiatives
- Diversity initiatives that focus only on recruitment
- Tokenism (one person representing a whole race, minority group, gender, etc.)
- High turnover, especially of a particular minority group

As you start to develop policies and decide they could negatively affect any protected groups, make sure you have a diverse group working on the project. Think about who the new policy and procedures impact and whether they could negatively effect any protected groups.

Training

Make sure employees and management staff are familiar with EEOC laws; and the company's "no harassment" policy; and, if you serve as a federal contractor, Office of Federal Contract Compliance laws.

Training, however, should go beyond focusing only on laws. Current and new employees should be informed about what inclusion means with special focus on behavioral patterns such as implicit bias, microaggression and stereotyping.

Partners

To be successful there should be buy-in from all sectors of the company — starting with the executives. Leadership needs to challenge the status quo and model the type of behavior they want to see.

Even if the team includes an ethics and compliance component, the organization's human resource department will be a valuable partner in implementing the policies and training during the onboarding process. ■

2021 Health Care Costs Could Reach Double Digits

Kaiser Family Foundation (KFF) reports that since 2012 the cost of family coverage has increased 3 to 5 percent annually. The COVID-19 pandemic is changing that trend.

Even though it's not known exactly how the pandemic will affect health care benefit costs in 2021, PwC's Health Research Institute projects that increases for employer-sponsored health plans could range anywhere from 4 to 10 percent. This is the first time in 15 years that PwC is reporting a double-digit projection for health care benefit costs.

One of the main reasons the pandemic has prompted such a wide range of projected increases is that many people delayed both preventive and elective care this year for fear of going into a doctor's office and contracting COVID-19. Experts are concerned about what might happen if the level of care in 2021 returns to normal levels.

About 157 million people have employer-sponsored health insurance — the largest source of health insurance in the United States, according to KFF. This is more than any other type of coverage, including Medicare, Medicaid and individually purchased insurance on the Affordable Care Act exchanges.

Employer-sponsored health care is popular because employers and employees can get significant tax deductions and because it's economical. The average employ-

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er-sponsored family coverage in 2020 is $21,342, according to KFF. Of that amount, employees paid about $5,588 and employers paid the rest.

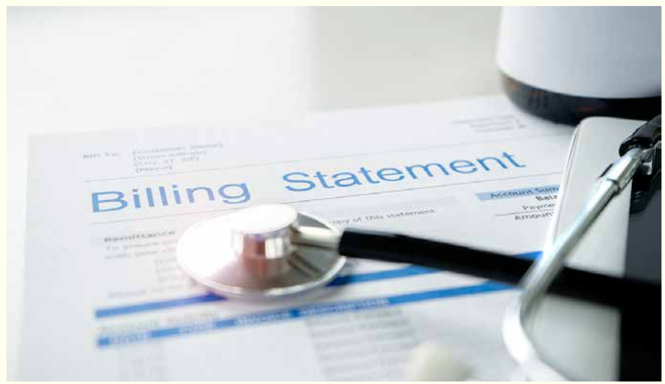
Employer Options

KFF data indicates that since 2010 average family premiums have increased 55 percent, a rate of increase that's at least twice as much as wages (27 percent) and inflation (19 percent).

Despite the annual increases, the National Alliance of Healthcare Purchaser Coalition reports that employers generally did not make any drastic changes to their health plans for 2021. Most employers are focusing more on how to get their businesses up and running again after city- or state-mandated closures. Employers are expected to actively start reviewing their plans at the end of 2021 in preparation for 2022 health care benefits.

A deductible is the specific dollar amount a health insurance plan requires a member to pay out of pocket toward covered medical care each year before insurance pays for covered medical expenses. Increasing the deductible continues to be a popular way for employers to keep premium costs down. KFF reports that more than 83 percent of covered employees have a deductible in their plan, up from 70 percent a decade ago. The average single deductible is $1,644. That's much higher from the $917 average a decade ago.

One of the biggest cost-cutting trends taking center stage during the pandemic was telehealth. Telehealth allows members to talk to a physician or mental health counselor using computers or mobile devices. Telehealth gives individuals the opportunity to seek care and get prescriptions without leaving the safety of their homes.



The Business Group on Health's annual survey on trends revealed that 53 percent of large employers are planning to expand their virtual care options for 2021. In addition, many are extending virtual options to new areas such as:

- Chronic care management
- Prenatal care
- Weight management.
- Mental health and well-being counseling
- Musculoskeletal issues, such as physical therapy for back and joint pain.

In addition to the growing interest in virtual care as a way to save money and get care safely, some employers are joining the trend toward on-site health clinics. According to the group's survey, 61 percent of the employers surveyed plan to offer on-site clinics in 2021. These clinics give employees easy access to immunizations plus provide care for situations where virtual care is not enough or chronic care management is necessary.

There also is interest is directing employees to centers of excellence. A center of excellence is a high-quality provider that specializes in a certain area of treatment and is recognized by the medical community as providing the most expert and highest level of care. Eighty-one percent of the respondents to the Business Group's survey said they would recommend centers of excellence to employees.

Even though employers are expecting health care costs to rise in 2021, Mercer's National Survey of Employer-Sponsored Health Plans said that only 18 percent planned to transfer those additional costs to employees. This approach is in sharp contrast to how employers reacted to the 2008 economic recession, which led many of them to trim health benefits.

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Family Friendly Benefits Now Include Fertility Treatments

A new trend in employer-sponsored benefits is fertility benefits. Not only do these family friendly benefits meet employees' needs, they save companies and individuals money.

According to the Centers for Disease Control and Prevention, one in eight Americans is affected by infertility. In addition, the LGBTQ+ community has actively sought fertility treatments as a way to have children. The Family Equality Council reports that 77 percent of LGBTQ+ individuals aged 18 to 35 are already parents or are considering having children — a 44 percent increase over previous generations.

Of those who pursue fertility treatments to create their family, the cost can be prohibitive. The average cost of In Vitro Fertilization (IVF) treatment can range from $22,000 to $30,000 depending on the treatment location, medications used, and testing required. In addition, it can take multiple treatments for a woman to become pregnant. With the median salary for a full-time employee in the United States close to $51,000 a year, fertility treatments are often out of reach for many individuals.

There is no set formula for what an employer-sponsored fertility benefit program must cover. Covered treatments might include IUI, IVF, egg freezing, surrogacy, adoption reimbursement, genetic testing and medications. Also, there may be requirements for pre-authorizations, dollar maximums or clinic restrictions.

With a managed fertility benefit, however, providing clinical oversight, pharmacy, neonatal intensive care and other health care related costs are often reduced considerably. In addition, there is less chance of having a multiple pregnancy. Not only are single pregnancies more healthy, according to WINFertility, the average nursery/NICU admission for for twins can run over $80,000 — and triplets can cost $400,000.

Employees who utilize a managed fertility benefit often return to work sooner than those who don't. They are also often more loyal, reducing employee turnover.

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