



# COST SAVING IDEAS FOR SELF-INSURED HEALTH PLANS

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Morgan, Lewis & Bockius LLP

A light blue background featuring a blurred image of a business meeting. In the foreground on the left, a person in a dark suit is holding a white folder. In the background, several other people in business attire are visible, though out of focus.

# **Saving Through Plan Design**

# Consumer Driven Health Plans

- Can shift costs and provide incentive to participants to use healthcare responsibly
- Places more control and responsibility in hands of participants over their own healthcare
- Examples include health reimbursement accounts (HRAs) and health savings accounts (HSAs)
- Participant education and understanding is key

# Link Coinsurance With Salary

- Shifts cost to participants according to their salary
- Can provide more incentive for higher paid participants to use health care responsibly

# Prescription Drugs

- Review plan design to encourage the maximum use of generics and less expensive drugs, including:
  - Charge participants the cost difference between brand and generic drugs
  - Formularies
  - Mandatory substitution of drugs
- Review plan design to encourage use of mail order for maintenance drugs

# Smokers' Penalties

- Separate pricing for life/disability insurance
- Extra flex credits for non-smokers
- Incentives for attending programs for smokers

# Health Plan Exclusions

- Medical condition or procedure is generally covered unless clearly excluded
- Review health plan exclusions for consistency with employer's policy

# Medicare As Primary

- Generally, Medicare will be primary to an employer's health plan for retirees, former employees on COBRA, disabled former employees, and their spouses and dependents
- Consider revising plan to ensure it is secondary to Medicare where permitted
- Revise participant communications if necessary
- Have enforcement policy in place

# Workers' Compensation

- In states where employees have ability to select health care provider for workers' compensation, consider add-on benefits, conditioned on use of pre-approved medical panel/network
- Consider budget incentives to encourage return to work and follow-up physician/rehabilitation care

# Counteract Cost-Shifting Under State Law

- Take advantage of ERISA preemption in plan design and administration to counteract cost-shifting under state law
- Example - no fault auto insurance in New Jersey

# Health Coverage For Working Spouses

- Increase employee's cost of enrolling working spouse with other available coverage
- Exclude working spouse from health plan coverage

# Health/Disease Management

- Disease management targets participants with particular diseases to actively help them manage and control such disease
- Whole health, or population, management promotes better health among all participants through education with products such as 24-hour nurselines and online health information
- Can couple these services with incentives, such as waiving deductibles or subsidizing gym memberships

# Medicare Part D

- Effective January 1, 2006, a new Part D to Medicare will provide prescription drug benefits for Medicare-eligible individuals
- Employers that provide prescription drug coverage for Medicare-eligible retirees will have 3 general options:
  - Provide prescription drug coverage that is actuarially equivalent to Part D and receive government subsidy
  - Supplement the Part D benefit
  - Terminate prescription drug coverage

# Captive Insurers

- A series of individual prohibited transaction exemptions issued by the Department of Labor make it easier for companies to use their captive insurers for ERISA coverages



# **Saving Through Better Plan Operation**

# Subrogation/Reimbursement Recovery

- Subrogation/reimbursement language gives a plan the right of recovery for injuries caused by third parties, but recoveries tend to be minimal due to lack of procedures and follow-through
- Consider implementing more aggressive enforcement policies
- Ensure plan language is comprehensive
- Examples
  - Monitor and flag claims that are accident related and follow up with participants
  - Have participants and attorneys sign subrogation/reimbursement agreements
  - Educate participants concerning subrogation/reimbursement requirements
  - Consider using third party that specializes in subrogation/reimbursement

# Dependent Coverage Audits

- Ensure only eligible employees and their dependents are enrolled in health plan
- Reinforce the definitions of eligible dependents, such as common law spouses and domestic partners
- Design procedures and forms for enrolling dependents
- Consistent disciplinary action and recoupment, to the extent legally permissible, of costs and expenses inappropriately incurred by the plan

# Coordination Of Benefits

- Review provisions to assure no payments in excess of employer target
- Avoid cost shifting from primary insurer
- Determine if COBRA coverage is secondary



# **Saving Through Plan Funding**

# VEBAs

- Reasons to consider using a VEBA to fund benefits
  - Regulated industries
  - Acceleration of tax deduction
  - Funding for retiree life
  - Funding for retiree health for union employees



# **Common Compliance Issues**

# ADEA

- Recent court ruling blocking EEOC rule exempting retiree health plans from ADEA

# COBRA

- Final DOL regulations concerning COBRA notices
- Interaction of USERRA with COBRA

# Documentation/Compliance With ERISA

- Compliance with ERISA requirements for:
  - Plan document and SPD
  - Timely distribution of SPD and SMMs
  - Claims procedures

# CONTACT INFORMATION

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