HR SPECIALIST
# Compensation & Benefits
Your guide to total rewards, cost savings & legal compliance
October 2008 – Special Edition

FLSA

## Approving altered time sheets can mean *personal* liability

If you're responsible for approving time sheets or signing off on alterations to the hours reported by employees, take note: It's not just your organization that risks a big fine and costly litigation. Your *personal* assets are also at risk, as a new court ruling shows.

That's because the Fair Labor Standards Act allows employees to sue their bosses, execs and HR professionals for personal liability for altering pay records.

For that reason, make sure supervisors don't tolerate—or, worse, encourage—off-the-clock work or the altering of time records. The U.S. Labor Department is receiving more complaints about employees forced to work through breaks.

*Remember:* For breaks to be unpaid, employees must be *completely* relieved of their duties. (That's one reason to discourage them from eating lunch at their desks.)

**Recent case:** A group of "living assistants" (hourly workers) at a home for the disabled worked 48-hour weekend shifts. They had to check on each resident every two hours, around the clock. When those employees turned in their time sheets, managers routinely deducted eight hours because each living assistant supposedly got two four-hour breaks. The CEO then signed off on the altered time sheets.

*The problem:* The employees couldn't leave the building during "breaks" and had to call the main office once an hour. Because the time wasn't their own, the court said they should be compensated.

**The kicker:** The court held the CEO personally liable, ordering him and the company to pay more than $500,000 to the employees, including $155,000 as a penalty. (*Chao v. SelfPride*, No. 06-1203, 4th Cir.)

**Free checklist How to make the 'exempt vs. nonexempt' decision**

To help you determine which employees are exempt from the FLSA, access our easy-to-use "FLSA Checklist: Exempt vs. Nonexempt Status" at **www.theHRSpecialist.com/FLSAchecklist**.

Employee leave

## Is it time to stop tracking employees' vacation leave?

In the all-out battle to recruit and retain, more organizations are experimenting with taking a radically flexible approach to monitoring employees' vacation and personal leave—or even abandoning such tracking entirely.

*Among the latest examples:*

- At tech giant **IBM**, each of its 355,000 workers earns three or more weeks' vacation each year, but the company says it doesn't officially keep track of the time off. Vacation time is set informally with supervisors, and unused time off doesn't carry over from year to year.
- **Best Buy** gives its 4,000 corporate employees the freedom to do their jobs without regard to the hours they put in.
- **Netflix** lets its 400 salaried workers take as much vacation time as they want, saying workers are evaluated on performance, not "face time."

In essence, employers are rethinking their traditional time-off policies in an effort to meet employees' needs for flexibility, while aiming to boost productivity and retention at the same time.

### Even more flexible than PTO

Plenty of employers have instituted paid-time-off (PTO) banks in lieu of separate vacation, sick and personal leave plans. PTO banks offer a total number of days off that employees can use for any reason.

But these newer plans go further, doing away with the concept of tracking leave time altogether.

Instead, employees make informal vacation arrangements with their managers, guided by their ability to perform their jobs successfully.

*The upside.* Reduced HR and supervisor record-keeping and administrative burdens; better employee morale; and increased productivity and efficiency.

*The downside.* Pressure on employees to be always on call; blurry boundaries

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**In this issue**

Compliance

# Collect proof of FMLA medical leave the right way

To help you decide whether an ailment rises to the level of a serious condition that triggers FMLA leave, you can require employees to provide FMLA medical certification. Essentially, that's a doctor's note that lays out the facts of the ailment.

But what happens if employees use that initial FMLA certification to take intermittent leave in a noticeable pattern of Friday and Monday absences? You can seek recertification to verify the person's continuing need for the leave.

The law says you can request recertification "on a reasonable basis." If the certification form doesn't specify a time limit, you can typically request recertification no more than once every 30 days. (Find a sample certification form, Form WH-0380, at **www.dol.gov/esa/regs/compliance/whd/fmla/wh380.pdf**.)

**Key point:** If you receive information that makes you suspect FMLA-leave abuse, you can ask for recertification more frequently. Fortunately, a recent U.S. Labor Department opinion letter says that a pattern of Friday/Monday absences counts as information that casts doubt on the employee's stated FMLA need.

That means you can seek recertification more frequently than every 30 days, as long as the request is made in connection with an absence.

### 4 certification tips

**1. Ask about the specific condition.** Medical certification must relate only to the serious health condition that's causing the leave. You can't ask about general health or other conditions.

**2. Give 15 days to respond.** After you request certification, give employees at least 15 calendar days to submit the paperwork. If employees' certification is lacking, notify them and give them reasonable time to correct it.

**3. Investigate the certification** if you doubt the need for leave. A health care provider representing your company can call the employee's physician to clarify the medical certification (if the employee gives you permission).

**4. Require (and pay for) a second opinion,** if you're still not convinced. Use an independent doctor whom you select, but not a doctor who works for your company. If the two opinions conflict, you can pay for a third and final binding medical opinion.

### Free advice on the FMLA

To obtain more advice on the FMLA, *Compensation & Benefits* subscribers can download these free white papers:

- FMLA: How to Define a Serious Health Condition
- How to Wipe Out Fraud and Abuse Under FMLA
- FMLA in a Nutshell: How to Comply

Access these white papers by going to **www.theHRSpecialist.com/whitepaper**.

### FMLA compliance checklist

- ✓ Draft a written FMLA policy and distribute to employees.
- ✓ Post the Labor Department's "Notice of FMLA Rights."
- ✓ Respond to an employee's request for FMLA leave within two business days.
- ✓ Include absences for workers' compensation as FMLA leave.
- ✓ Explain your company's internal rules on using FMLA leave.
- ✓ Establish a measuring-year method for tracking annual FMLA leave.
- ✓ Verify serious health conditions with medical certification.
- ✓ Deduct intermittent leave from an employee's 12-week entitlement.
- ✓ Treat the ADA separately from the FMLA.

# Tracking leave

*(Cont. from page 1)*

between work time and time off; plus a greater temptation for employees to exploit the system.

### Legal risks for employers

Some employment law attorneys warn that such informal attitudes could put employers at risk in certain situations.

For starters, such a plan typically can't apply to hourly, nonexempt workers, which means unequal perks could spark resentment if your workforce includes both salaried and hourly staff.

Unlimited leave plans also could become a problem if a group of employees challenged their nonexempt status. Your record-keeping and pay/benefits practices surely would be scrutinized. And, unintentionally limiting your time-off perk to certain classes of employees—such as administrative or salespeople—could result in a discrimination claim.

Additionally, unlimited, untracked leave could make it difficult to monitor the true reasons behind employees' absences—reasons that could trigger your responsibilities under the ADA, the FMLA, workers' compensation or other disability benefits.

### 'Unlimited' employee leave: two issues to consider

*In forming and following a modern time-off policy, keep in mind these considerations:*

**1. Consider your workforce first.** If it's primarily composed of salaried professionals, a more flexible time-off policy may be a cultural plus that helps retain good employees. Clearly establish who's eligible and install at least a minimum level of accountability between employees and their supervisors. Plus, realize that employees don't always take advantage of all their annual vacation days.

**2. Be flexible, but set outside boundaries.** You can promote flexibility, but also set reasonable expectations and limit how much time off employees can earn. For instance, a policy limiting vacation use to a maximum of two or three workweeks at a time or restricting the use of vacation time when the workload is high, is legal and enforceable.

# Stop overpaying employees for pre- and post-work activities

The U.S. Supreme Court in 2005 created a big fuss by ruling that time used to put on or remove some work clothes and safety gear may be compensable time. As a result, many employers changed the way they calculated pay.

Now it turns out that employers may have been too quick to revise their pay habits. Recent court rulings have provided clarity on the issue—and the news is good for employers.

*The message:* You generally don't have to pay for the time employees spend preparing for their workday, such as waiting in security lines or putting on generic headgear and work boots.

You have to pay only if the safety equipment is specialized and an "integral and indispensable" part of the work the employees have been hired to perform.

*Example:* Workers at a chicken-processing plant in Georgia sued, saying they should be paid for time spent donning smocks, gloves and hairnets. The court agreed with the company. It interpreted the Supreme Court's 2005 decision to require payment only for donning and doffing special protective gear, not the ordinary clothing these employees changed into. (*Anderson, et al. v. Cagle's*, No. 06-10306, 11th Cir.)

### To pay or not to pay?

- Walking from parking lot to time clock —**Not paid**
- Waiting in line to clear security on the way to the workstation—**Not paid**
- Putting on apron or standard safety boots, helmet, etc.—**Not paid**
- Powering up and testing an X-ray machine before taking X-rays—**Paid time**
- Showering after work if it's essential to remove hazardous toxins—**Paid time**

# Be prepared to back up hours worked for exempt employees, too

You carefully track all hours worked by *nonexempt* employees. But do you know how many hours your *exempt* employees work? That can become a problem if you misclassify an employee as exempt when the person should have been nonexempt.

If a court or labor department orders you to cough up back pay and overtime, you won't know how many hours the person worked. And a court may accept the employee's inflated estimate.

Nothing in the law prevents you from requiring *all* employees (exempt and nonexempt) to record their hours by punching a time clock or maintaining a time sheet. That way, you'll have time records if you need them. Just make sure you don't base exempt employees' compensation on those hours or you'll jeopardize their exempt status.

**Recent case:** When Sprint ran an internal audit of its Fair Labor Standards Act (FLSA) compliance, it concluded that some customer service reps, including Philip Price, were incorrectly classified as exempt computer professionals. They should have been nonexempt hourly workers.

Sprint reclassified Price as nonexempt and gave him an $8,200 check based on its guess of his overtime hours. Price balked, estimating that he often worked up to six overtime hours per day. He filed an FLSA lawsuit to recoup the unpaid overtime and won.

The court said it was Sprint's duty to prove how many hours Price worked, even though it had classified him as exempt. If Sprint couldn't, the court could use Price's estimates. (*Hunter v. Sprint*, No. 04-0376, DC DC)

## Thwart FMLA abuse with periodic calls, check-ins

A Philadelphia city worker took lots of sick leave for anxiety. He eventually was granted three months of FMLA leave. The city expected sick employees to stay home, except for doctor's appointments. Sick employees had to call a sick-leave hotline when leaving home. Plus, the city checked up on sick employees with calls and personal visits.

The employee twice was caught away from home without having called the hotline. When he returned to work, he was suspended for violating the call-in policy. He sued, alleging that he had a right to be left alone while on FMLA leave. A federal court tossed out his case, saying "nothing in the FMLA prevents employers from ensuring that employees who are on leave from work do not abuse their leave." (*Callison v. City of Philadelphia*, 3rd Cir.)

**Advice:** The FMLA allows you to check in on employees on medical leave to make sure they're resting at home. And you can require that on-leave employees contact you whenever they leave the house.

## Manager's interview notes can be binding contract

During Robert Baum's interview with Helget Gas Products, he said he needed a three-year contract. Baum took careful notes of the discussion with the hiring manager, including descriptions of salary and benefits.

After he accepted the job, Baum wrote "Contract with Helget Gas Products" across the top of the notes, and gave them to the manager, who signed them. Baum was fired a year later for not meeting sales goals. He sued, saying the notes guaranteed him three years of work. A court agreed with Baum, saying that the signed notes did create a contract. (*Baum v. Helget Gas Products*, 8th Cir.)

**Advice:** Managers should never sign anything an applicant or employee hands them without prior HR approval.

## Payroll

# Final business: 5 steps to take when an employee dies

Beyond its obvious emotional impact, an employee's death almost always leaves unfinished business for HR and payroll. Follow these steps to help smooth the process:

**1. Ask the family for a death certificate** (usually available about one to two weeks after the death) and whether a federal tax ID number exists for the estate. That may seem intrusive, but you should receive valid proof of death before cutting the final paycheck to a family member. Also, the tax ID number will be necessary if the final paycheck goes to the deceased person's estate, rather than to a relative.

**2. Begin COBRA notification process.** An employee's death counts as a COBRA-qualifying event for spouses and dependent children. If your organization must comply with COBRA, begin the paperwork necessary to notify your insurance carrier and survivors. Let survivors know how to file any life insurance claims as well.

**3. Determine who should receive the employee's final wages.** In some cases, the final paycheck will be paid directly to the estate administrator. In others, the check may go to the employee's spouse, children or other party.

**4. Record and report** before- and after-death payments carefully, if final wages are paid in the same year. Withhold FICA if the final paycheck is cut in the same year as the employee's death.

Use IRS Form 1099-MISC to report payments made after the employee dies. If the final paycheck is sent to an individual (a spouse, for example), include that person's Social Security information on that form. If the final check goes to the estate, list the estate tax ID number. At year-end, use IRS Form W-2 to report total compensation before death as well as any Medicare and Social Security deductions.

**5. Don't withhold employment taxes,** if final wages are paid the following year. Any outstanding wages that aren't paid until the next calendar year aren't subject to federal income, Social Security or Medicare taxes. Report the total amount paid after death in box 5, "other income" on Form 1099-MISC.

You won't need to file a W-2 at year-end if you issue the final paycheck in the next year. Check with your state's labor department about reporting and withholding procedures.

## Compensation

# Why you need a forfeiture clause in every job contract

If your organization writes employment contracts for key employees, it may be making one costly mistake: unconditionally guaranteeing salary and benefits to employees even if they commit misconduct that would warrant firing.

**Solution:** Draft employment contracts with an eye toward the future. Make sure to include a forfeiture clause that specifies the reasons employees would not earn their promised pay and benefits.

Consider this recent court ruling as your fair warning: A chief operations officer (COO) signed an employment contract that promised him pay and perks over a certain number of years. Some years later, three female employees filed a lawsuit saying the COO had harassed them. After an investigation, the company fired the COO and refused to pay him the remaining three years of promised pay.

The COO sued, claiming breach of contract. A federal appeals court sided with the COO, saying his employment contract didn't include any exceptions to the compensation clause. (*Fields v. Thompson Printing Co. Inc.*, No. 02-2764, 3rd Cir.)

### Sample contract language

A sentence as simple as this in an employment contract could save you much hassle (and expense): "Employer reserves the right to terminate the employee's salary and benefits in the event of a termination 'for cause,' including employee misconduct, nonperformance or any other business-related circumstance."




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Insurance

# Cut health costs by dangling the right opt-out incentives

When it comes to employee health premiums, "good news" is relative.

Average premiums jumped by about 10% in 2008, which is down a bit from previous years. But that growth rate is still more than twice the inflation rate.

**Advice:** You can shift only so much of the cost burden to employees without inciting a revolt. So, one way to cut costs is to decrease the number of participants in the plan. To do that, more employers are offering employees a lump-sum cash payout or other incentive to decline health-insurance benefits.

Some of the most common forms of payouts: cash rebates and contributions to retirement plans or private health savings accounts.

"If the incentive is appreciably less than the health insurance, it makes sense," says William Dennis, a National Federation of Independent Business researcher. "But it can reach the point of diminishing returns."

To prevent that problem, Dennis suggests that incentives shouldn't exceed $3,000.

Opt-out incentives attract employees who already have access to health coverage through other means, such as their spouse's work-based plan.

*One downside:* Employees may take the cash and spend it, leaving them with no insurance and increasing absenteeism if they become ill. For that reason, some employers offering opt-out incentives require proof of coverage from another source.

"When an employee opts out of our medical coverage, we reimburse the employee $100 per month," says the HR director of a Fitchburg, MA, manufacturer. "To be eligible, the employee must provide proof that he or she is covered by another plan."

**Another option:** Drop coverage altogether and pay a flat-fee stipend that employees can apply toward insurance. Last year, a Wichita trucking company with eight employees stopped health coverage and began paying employees $300 per month for single coverage, $400 for an employee plus one person and $500 for a family. The company saved about $96,000 in one year.

**Free report** **37 Health Care Cost-Containment Strategies**

Employers are using a variety of different tools to douse the health-premium inflation fires. Our white paper, *37 Health Care Cost Containment Strategies*, cites more than three dozen of the most popular cost-saving tactics in use today. Download the report at **www.theHRSpecialist.com/whitepaper**.

Expert Advisor

*by Matt Weinstein*

# How to make reward and recognition programs fun

The problem with standardized reward and recognition programs is that they are completely impersonal processes. Instead of thinking about the specific people involved, the company provides the same generic awards to everyone. But when an element of fun and play is added, the experience becomes personalized and much more memorable for the award recipient, without additional financial expense.

If you can make the reward and recognition process fun, your employees will talk about the event long after it has ended, and you will have multiplied its team-building impact many, many times.

**Example 1: The shopping spree.** Dr. Jeff Alexander of the Youthful Tooth dental office calculated that he could give a $200 bonus to each employee. But Alexander knew that if he just added $200 to each paycheck, his staff would've been excited for a little while, but probably would use the money for something "practical."

So Alexander closed his office for two hours one afternoon, took all 35 employees to a shopping mall and handed each an envelope containing $200 in cash.

"This is not your money," he told them. "It's my money. But anything you buy for yourself with this money in the next hour is yours to keep. Here are the rules: You have to spend it on gifts for yourself. You have one hour to spend it, and you have to buy at least five different items. Any money you haven't spent in the next hour comes back to me. Go get 'em!"

His employees spent the next hour dashing wildly from store to store, yelling back and forth to each other about treasures they'd found. "That was a real treat for them—and it gave me a great feeling, watching them having fun," Alexander said.

**Example 2: Ford has a better idea.** Ford Motor Co. spent more than $1 million on one memorable evening, demonstrating that Alexander's idea can be easily adapted to fit a more extravagant budget as well. Ford rented out Nordstrom's department store in San Francisco one evening and gave $5,000 in spending money to each of its 250 top-selling sales managers, who were in town for a national sales meeting. Ford hired sports celebrities such as Tommy Lasorda and Julius Erving to accompany the sales managers on their shopping sprees.

**The bottom line:** No matter what your budget, you can make the bonus fun.

*Matt Weinstein is the founding president of Playfair, Inc., an international team-building organization that pioneered the study of fun at work, and the author of the best-seller* Managing To Have Fun. *Contact him at* ***www.Playfair.com***.

## Payroll How can you rein in rogue ‘early-clockers’?

*Do you have employees who clock in before their shifts start? If so, how can you cut down on it? Contributors to our weekly HR Specialist Forum (**www.theHRSpecialist.com**) offered these suggestions:*

### Technology

“Early clock-ins were a continuous problem until we found a new time clock. It’s set so that employees can’t punch in more than nine minutes early or nine minutes after the end of their shift without a supervisor going to the clock with them.”
**— L.R.P., Massachusetts**

“Our time clock rounds off every 15 minutes. If they punch in 10 minutes early (i.e., 7:50 a.m.), it will round it off to 8:00 a.m. Employees have been warned about punching in early and if they do it habitually (our time clock tracks it), they are written up.” **— C.J., Ohio**

### Discipline

“Our company had some early clockers and we gave verbal warnings to those that we personally caught. After two verbal warnings they were written up. We did not dock timecards.”
**— Debbie, California**

“We use progressive discipline. Employees are warned not to clock in more than five minutes early. They receive an oral warning, then two written warnings. After that, they can be suspended without pay for a day.”
**— Mary Ann, New York**

### Policy

“Our policy (allows punching in) five minutes before the shift starts. Ten minutes early and the employee will get a verbal warning. The next time, he or she will get a write-up until termination if it persists. We have already terminated four employees this year for clocking in early. **— M.S., Tennessee**

“We state in our handbook that no one may clock in earlier than 10 minutes before their shift starts. So if someone clocks in 15 minutes early, our software reduces their time by 10 minutes.”
**— D., Nebraska**

### Signage

“We had the same issue and stopped it. We now have a sign next to the time clock with specific instructions as to when to punch in.”
**— Cyndi, Minnesota**

### Supervisor meeting

“We would pay for the time, but inform the supervisor to talk to the employee. We have people who come in early due to car pooling schedules. They are allowed do personal business until 8 a.m.”
**— Michelle, Maryland**

## Q&A Forum

### Can we convert all employees to nonexempt?

**Q. For years, we’ve always had salaried employees. But we have many employees who always come in late and leave early. This is hard to track. We are thinking of making them hourly employees and getting a time clock. If I make them all hourly employees, I know that I have to pay overtime, but it might be worth it. Can I legally change their status from exempt to hourly, or are some employees required to be salaried? — B.B., New York**

**A.** No law prevents you from converting all of your employees to hourly, nonexempt status. However, on top of the additional overtime costs you’d face, I anticipate that an across-the-board change would create a morale problem, too.

Indeed, many employees are disappointed when they’re converted from salaried to hourly status. Those employees aren’t focused on the overtime dollars. Instead, they view themselves as “professionals” and think of overtime as something for “less valuable” employees.

### You can remove injured employees for safety reasons

**Q. An employee told us he has a bad hernia. He wants to wait a couple months to have the operation, since it requires six weeks’ recovery. He does some lifting in his job. Yesterday, he went home early because he was in pain. Now that we are aware of his condition, what’s our liability? And what should we do? — D.C., New Jersey**

**A.** Under the ADA’s “direct threat” provision, if you believe, based on objective evidence, that an employee can’t safely perform his job because of a medical condition, you can require the employee to take a medical exam. That’s true whether the employee’s condition poses a threat to the safety of others or just to himself. Advise the doctor performing the exam of the employee’s essential job functions. And ask the doctor to report whether the employee can safely perform such functions with or without reasonable accommodation.

If you simply allow the injured employee to continue working, you could face a significant workers’ comp claim. Keep in mind, workers’ comp laws in many states cover pre-existing conditions that are aggravated during the course of employment.

### Break into vacation-leave bank if sick leave is empty

**Q. If an employee is out sick but has already used up her sick-leave hours, can we legally subtract from her vacation time instead? — K.P., Michigan**

**A.** Generally, yes. You can legally tap into an employee’s vacation allotment for sick-leave absences if the employee has exhausted all of his or her sick time. Before you do, review your policies and past practices to make sure that you’ve handled similar situations the same way.

Also, consider implementing a paid-time-off (PTO) plan, in which employees accrue time off in a single leave bank.

*Do you have a question for our Q&A Forum? If so, you can fax it to* **HR Specialist: Compensation & Benefits** *at (703) 905-8042 or e-mail it to* **HRCBeditor@NIBM.net**.

## 'Camp fair' helps employees plan summer camp for their kids

The HR department at **AstraZeneca**'s U.S. headquarters helps employees who are parents line up summer camps for their kids by hosting a "camp fair" every spring.

The Wilmington, DE-based pharmaceutical company invites representatives of 35 to 40 local camps of all flavors.

Employees love the fair because it saves them time and effort. It also makes them less likely to spend hours of company time researching summer camps on the web.

To find camps in your area, check the American Camp Association (**www.acacamps.org**), the National Camp Association (**www.summercamp.org**) and KidsCamps (**www.kidscamps.com**).

## 15-min. workout (in work clothes) cuts excuses to skip exercise

The 280 employees at **Boland Inc.**, a Rockville, MD, air conditioning company, have run out of excuses to do at least a minimum amount of exercise.

*Reason:* Two years ago, the company adopted Rick's Quick Fit, a 15-minute workout that employees can do in their work clothes. A 10-minute stroll on a treadmill, a three-minute workout with hand weights, a minute of stretching and a minute of stomach crunches every day has helped some of the 200 participants lose weight or lower blood pressure.

Boland held training sessions on how to do the exercises safely. Now employees do the daily program either at home or in the office gym during breaks.

## Walking competition generates ROI of 10 times the cost

Employees at Amherst, NY-based **Ivoclar Vivadent** started walking in the spring, and for 20 weeks, they didn't stop. Thirty teams of four people each used pedometers to count their steps and competed to see who could walk the most. Winning teams won gym bags full of prizes. The teams were split into three divisions: walkers, walkers who wanted to lose weight and walkers older than 50.

"They were going crazy, walking during meetings, walking during lunchtime, walking around the office," says Michele Golding, benefits compensation manager.

Six weeks into the program, two sales people no longer needed cholesterol medication. The 34 people in the weight-loss division had lost a collective 200 pounds.

Golding admits the program is time-consuming, especially time spent keeping stats and recruiting new participants. The company spends about $4,000 every 20 weeks on pedometers and prizes, but Golding says the cost benefits of healthier employees will be about 10 times greater than the program's expense.

## 'Nanny Share Network' helps solve day care dilemmas

When they heard rumblings from staff that finding reliable and affordable in-home child care was becoming more difficult, the benefits pros at the **University of Washington** in Seattle developed the Nanny Share Network: a free service for faculty, staff and students.

*How it works:* Employees fill out a registration form, adding it to a secure Nanny Share database on the university network where staffers can search for suitable share arrangements.

Employees contact potential matches via e-mail and then e-mail the benefits department when they reach an agreement. The university then provides helpful resources on nanny shares and encourages dialogue among Nanny Share members through an online discussion board.

## Marital counseling as a benefit

S. Truett Cathy, founder of the **Chick-fil-A** restaurant chain, has been happily married for more than 50 years. He wants his employees to be just as blissfully bonded as he and his wife are. So, he offers premarital and marital counseling to his central office employees and 900 franchise owners.

The move goes beyond typical EAPs that assist only employees who are having difficulty in their relationships. Instead, the counseling provides practical exercises to improve communication.

The company feels that marital strife can damage employees' work performance. *The goal:* Avoid this loss of productivity by providing assistance to employees *before* domestic problems start affecting work.

## 'No walls' management boosts referrals

At Ohio-based **The Right Thing Inc.**, about 70% of new hires come from employee referrals. One key reason is the 350-employee company's laid-back atmosphere, with no formal managers or departments. And turnover has fallen dramatically since 2003, when the company began an employee profit-sharing plan that involves half the company's profits.

## Paying cash for wellness participation

**Pepsi** offered a $75 Mastercard prepaid debit card to any employee who participated in a health assessment. *It worked:* 70% of the 33,500 employees participated.

For employees who needed follow-up help, the company offered $100 to workers who attended classes on smoking cessation, diabetes management, high-risk maternity or depression.

For every $1 the company invests, it sees a $1.50 to $2 return.

## By The Numbers

### Health care education offered by employers

| | 2003 | Today |
|---|---|---|
| Open enrollment materials | 72% | 93% |
| Links to health plan on intranet | 44 | 78 |
| Plan info on employer intranet | 33 | 73 |
| Disease-management programs | 24 | 64 |
| Health fairs or workshops | 33 | 58 |
| Links to health content on intranet | 39 | 57 |
| Nurse line/demand management | 23 | 54 |
| Newsletters | 19 | 52 |
| 'Report card' comparing plans | 6 | 18 |
| Self-diagnostic testing | n/a | 11 |

*Source:* Deloitte Consulting *Reducing Corporate Health Care Costs Survey*

# 'Death audits' and 6 other ways to avoid benefits errors

Whether you work with a comp-and-benefits team of one or 100, chances are you don't have time to check every calculation you make. Yet mistakes that slip through can cost an organization millions of dollars in benefits overpayments.

Take the case of the company that invited its first 100-year-old retiree and his family to a birthday bash only to discover the man had died 20 years earlier and his son had been cashing his retirement checks ever since.

Richard DeFrehn, head of the administration consulting practice at Sibson Consulting, says an every-other-year "death audit" would have caught the fraud years earlier. He recommends that organizations search for death records for every retiree during the audit.

Here are six other ways to head off benefits administration mistakes before they wind up costing your organization big bucks:

**1. Cross-train administrators** who do similar jobs so each knows what the other does. DeFrehn tells of an organization with two administrators responsible for terminating benefits when employees left the company. They had no contact with each other, so one might process an employee before the other one did, holding up the termination of benefits. *The result:* The firm paid about $1 million worth of premiums it did not owe for former employees. *The solution:* Once the two trained together, they synchronized their schedules so each completed the required paperwork at the same time.

**2. Update your technology.** Some programs automatically update spreadsheets with preprogrammed error messages, so the administrator checks the computer's work rather than his or her own work.

**3. Set up a system for triple-checking.** DeFrehn recommends that three people check every number: the administrator who did the calculation; a colleague who is involved with the work but did not do the calculation; and a third who was not involved with the work. Involve an actuary in the most difficult calculations.

**4. Take your time with work that involves numbers.** DeFrehn worked with an organization that cranked out benefits statements for employees within 10 days of the end of each quarter, and they were full of mistakes. When they eased their deadline to 20 days, the mistakes all but disappeared.

**5. Keep up-to-date** on changes to laws covering pensions and benefits. Many firms outsource compliance work because it's not possible for a small HR staff to be out of the office for regular compliance-related training.

**6. Perform an ABC** (administration of benefits and compliance) audit every three years. ABC reviews can unearth everything from overpayments to compliance breaches. Most organizations use outside consultants to conduct the audits.

"Any time someone does something, someone else should review it—on every transaction," advises DeFrehn. "People make mistakes, and they can cause issues."

## FYI

### Review per diem reimbursements: IRS looking closer

Make sure you're closely tracking expense reimbursements. Since 2007, the IRS has issued a stern warning: The *entire amount* of the expenses would be subject to income tax and employment tax if your organization routinely pays per diem allowances above the federal per diem rate, but it fails to track those allowances (and doesn't require employees to substantiate all expenses or repay excess amounts) or you fail to include the excess amount in employees' wages.

### Back problems: the top workplace disability claim

It's smart to focus your health-prevention dollars on the ailments that cost your organization the most in employee absences, decreased productivity and increased health care costs. The top five chronic conditions that cause the most workplace disability claims, according to MetLife, are: (1) Lower-back disorders; (2) depression; (3) coronary heart disease; (4) arthritis; (5) pulmonary disease.

### Money trouble is the No. 1 stress point for employees

What's keeping your employees awake at night? For most it's money woes and work/life balance. In a poll by work/life vendor LifeCare, nearly one-third of 1,500 employees surveyed said financial issues topped the list of their greatest challenges. One-quarter cited the struggle to balance work and family. Also in the running: health and wellness matters (12%); legal issues (12%); child care issues (8%); and adult care worries (3%).

**Tip:** Financial education programs can help to alleviate employee stress.

### By The Numbers

| | |
|---|---|
| **$1,419** | Average weekly wage in New York County, NY, the highest among the nation's 317 largest counties |
| **7.5 million** | Number of U.S. workers who hold down more than one job |
| **28%** | Percentage of U.S. workers who work more than 40 hours a week |
| **8%** | Percentage of U.S. workers who work more than 60 hours a week |
| **3%** | Percentage of U.S. workers who work the night shift (anytime between 9 p.m. and 8 a.m.) |

*Source:* U.S. Census Bureau



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