

# Employee Benefits Report

The  
*Amerisc* Corp.

777 Zeckendorf Blvd. • Garden City, NY 11530 • (516) 745-7500



December 2006

Volume 5 • Number 12



## How the Pension Protection Act is Redefining Defined Contribution Plans

The Pension Protection Act will make administering defined contribution plans easier for employers.

In August of this year, President Bush signed the much-anticipated Pension Protection Act of 2006. The law is touted as an effort to shore up unsound defined benefit pension plans and provide greater personal savings options for employees. But the new law goes much farther by also including several changes for defined contribution plans, such as 401(k) plans. Here are some select provisions to note for this year and for years to come.

The IRS has long permitted employers to automatically enroll eligible employees in 401(k) plans pursuant to so-called “negative elections.” However, there have been questions concerning whether these negative elections comply with the various state wage and hour laws. Effective immediately, the Act specifically preempts all state

wage and hour laws that would directly or indirectly prohibit or restrict negative elections.

For next year, the Act also includes several rules that will make the administration of automatic enrollment plans easier and possibly more attractive to plan sponsors. For example, employers may give participants a 90-day window to elect out of the plan, and if an employee does so, the plan may distribute the employee’s account balance immediately without penalty.

Employers sponsoring automatic enrollment plans will have six months, rather than the two-and-a-half months under present law, in which to make refunds if a plan fails the applicable nondiscrimination tests.

So what does this new law mean for you? With fewer uncertainties about auto-enrollment violations, most re-

tirement experts advise plan sponsors to regard auto-enrollment and auto-enhancement—that is, automatic increases in the percentage of pay to be contributed—as among the easiest things you can do to enhance the value of your defined contribution plans for both workers and the company.

Be aware, however, the new safe harbor regulations require your plan to ensure:

- ✓ that default employee contributions equal at least three percent of pay in the first year of participation and that they increase annually to at least six percent in the fourth year of participation (with a maximum contribution of 10 percent of pay);
- ✓ the employer either matches contributions for all eligible

## This Just In

What are the most commonly offered benefits in the U.S.? According to the 2006 Benefits Survey by the Society for Human Resource Management (SHRM), the five most commonly offered employee benefits are: paid holidays—provided by 99 percent of survey respondents, direct deposit (98 percent), prescription drug plan (96 percent), payroll deductions (95 percent) and professional development opportunities (95 percent).

But when it comes to “family friendly” benefits, the numbers begin to drop. Only 76 percent of respondents provided a dependent care flexible spending account; 65 percent offered life insurance for dependents; 57 percent allowed workers to create flextime hours, and only 45 percent allowed workers to telecommute from home on an ad-hoc basis.





# Medicare Part D: A First Year Scorecard

Employers' reactions to Medicare Part D drug coverage have been mixed, at best. Fortunately, you have other options for covering retirees.

Now that the dust has settled around the new Medicare prescription drug benefit, employers are in a better position to assess their Part D strategies in the context of their broader HR programs. For those employers that have already opted for the subsidy, there is increasing clarity about operational compliance with the regulations issued by the Centers for Medicare & Medicaid Services (CMS). For those that haven't yet decided or hope to decide before the end of the year, here's what the marketplace is saying about Part D.

First, based on increasing health care costs, it is not surprising that most employers surveyed (82 percent) used their federal subsidy entirely to reduce their own cost, according to a nationwide survey developed by Towers Perrin and conducted by the International Society of Certified Employee Benefit Specialists (ISCEBS). Only 14 percent opted to share the cost reduction or use the subsidy entirely to reduce the cost for retirees.

Still, there's increasing evidence that employers are rethinking their prescription drug strategies for both Medicare-eligible and non-Medicare-eligible retirees. Fewer appear com-

mitted to taking the federal subsidy again in 2007, and more seem interested in alternative approaches. And many organizations aren't sure yet what they'll do next year.

Though taken earlier this year, the Towers Perrin/ISCEBS survey found that nearly two-thirds (63 percent) of the respondents said they had not decided on how to respond to Medicare Part D beyond 2006. More than a third—the remaining 37 percent—said they had made up their minds. This puts the majority of plan sponsors in the undecided camp in terms of a long-term Part D strategy. By contrast, nearly two-thirds (65 percent) of respondents said they opted to continue their retiree prescription drug plans and collect the federal subsidy in 2006.

## Chilly reception

Perhaps even more striking is what those companies that do have a Part D strategy in mind for 2007 had to say. Fewer than half (42 percent) in this category said they plan to maintain current benefits and collect the federal subsidy. The remainder indicated that they are considering a variety of alternative approaches—none of which involves continuing to collect the subsidy.

The two most popular choices are to offer a supplemental plan in coordination with Medicare Part D plans available in the market and to offer a specific Part D plan. More than one in 10 respondents (12 percent) indicated that they planned to eliminate all retiree medical coverage in 2007 or eliminate prescription drug coverage.

Most employers also told their Medicare-eligible population that if they chose to enroll in a Medicare prescription drug plan (PDP) or a Medicare Advantage plan with prescription drugs (MA-PD), they could not continue to qualify for a company-sponsored drug benefit. The deadline, by the way, for individual enroll-

ment is December 31 of this year.

Fully 41 percent of companies surveyed said retirees could not continue in the employer's medical plan if they enrolled in a PDP, while another 25 percent said retirees could continue in the medical portion of the plan but not the drug portion. More than a quarter (28 percent) said retirees could continue in the employer plan if they enrolled in a PDP.

Looking ahead to 2007 and beyond, the Tower Perrin survey indicates tenuous company confidence in the Medicare Part D program over the long term. About 60 percent of employers believe that in the future, Medicare Part D will eliminate private plans, and the price of prescription drugs will be controlled by CMS. More employers believe Part D will be repealed (16 percent) than believe that private plans will be successful in controlling prescription drug costs.

Perhaps the biggest hurdle on the more immediate horizon for plan sponsors is the accounting changes that the Financial Accounting Standards Board (FASB) is considering for pension and other postretirement benefits, including retiree medical benefits. Most of the employers in the survey indicated concern about potential earnings volatility as a result of the FASB proposal, with almost a third (30 percent) anticipating either a "significant" or "very significant" effect.

## The emerging alternative

As a result of these negatives, some employers are considering or offering Medicare Advantage private fee-for-service (PFFS) plans. These plans, which have been authorized since 1997, are now more financially attractive to insurers as a result of increased CMS reimbursements to Medicare Advantage plans under the Medicare Modernization Act. PFFS plans are insured and administered by private insurers but provide indemnity-type coverage that does not restrict beneficiaries to a network of providers.

PFFS plans deliver considerable cost savings to plan sponsors, especially to companies with significant retiree populations, in part because they bring Medicare services to beneficiaries more efficiently through a single claim administration process for Parts A and B coverage and the claims arising from the employer's supplemental plan. Additional savings may be available to the extent that retirees' participa-





## Mental Health Benefits

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- \* How will EAP client records remain completely confidential and protected as required by law?
- \* Does the EAP provide on-site service?
- \* Will my company receive direct management communication and support from the EAP?
- \* Will the EAP be visible and responsive in a crisis, and provide timely, customized on-site critical incident stress management services and crisis response at all workplace locations where needed?
- \* Will providers be EA professionals, or are they behavioral health counselors with no EAP credentials?
- \* Does the EAP guarantee availability of non-urgent and urgent appointments in a timely and responsive fashion?
- \* Can my company deal directly with the EAP provider's decision-makers for quick response to all management and consulta-

tion needs?

- \* How will the EAP provider track utilization of EAP services? Do the utilization figures separate employees from dependents? Do the utilization figures separate phone calls? Trainings and consultations? Does the EAP track the number of employees or dependents assisted, or just the frequency of assistance?
  - \* Does the EAP utilize a reliable data collection process that delivers valid, measurable client and organization satisfaction ratings?
  - \* Will the EAP provide annual utilization, satisfaction and client-specific return on investment (ROI) reports?
- Like other benefit plans, EAPs can vary greatly from one program to the next. Start by determining the level of service you want and can afford, then look at the options available that satisfy those levels. ■

roll funds in qualified retirement plans directly into Roth IRAs. (Currently rollovers must go through traditional IRAs.) Such transfers will be allowed in 2008 and 2009 only for individuals eligible to convert to Roth IRAs (i.e., those with modified adjusted gross income of no more than \$100,000)—there is no income limit starting in 2010.

Many favorable retirement plan rules, such as increased contribution limits to 401(k) and other qualified plans, the existence of Roth 401(k) plans, and the tax credit for small employers to start retirement plans, were scheduled to expire at the end of 2010. The Pension Protection Act makes these changes permanent.

As a result, companies that had been reluctant to adopt Roth 401(k)s because of their temporary nature should now consider offering this option to employees. It allows employees to contribute money on an after-tax basis so that earnings can be withdrawn entirely tax free later on.

The Act also allows owners and other individuals in a position to fully utilize contribution limits to stash more money on a tax-advantaged basis in qualified retirement plans and IRAs. Contribution limits, including limits on catch-up contributions by those age 50 and older, will be adjusted annually for inflation, with a few exceptions.

The Pension Protection Act is a major overhaul, so it's best to take some time to educate yourself, management and your employees. Call us to find out more on how the Act can benefit not only your firm, but your employees as well. ■

## Are EAPs Cost Effective?

**T**hey aren't cheap, but do they provide a good return on investment? The answer is yes, according to the American Psychological Association, the Society of Human Resource Management and other sources. Consider:

- \* EAP services avoided work loss in 60 percent of cases.
- \* The average EAP response saves 17 hours of lost work per case.
- \* When legal/financial work/life services are provided, work loss is avoided in 39 percent of the cases and work productivity improves in 36 percent of the cases.
- \* Thirty-five percent of companies that offer EAP services indicate they've increased assistance since the 9-11 terrorist attacks.
- \* Seventy-four percent of employees who say their company offers workplace support find it valuable or help-

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non-highly compensated employees at a rate of 100 percent of the first one percent of pay contributed plus 50 percent of the next five percent of pay contributed, or makes a non-elective contribution equal to three percent of pay to all eligible employees;

- ✓ that matching contributions or non-elective contributions vest after two years of service.

With the new regulations, reporting to the government will become easier for many smaller businesses. For plan years beginning on or after January 1, 2007, the annual return filing requirements for one-participant plans (e.g., profit-sharing plans for sole practitioners) will be eased. The IRS is directed to exempt plan reporting if assets at the end of the plan year do not exceed \$250,000 (currently, only plans with assets that do not exceed \$100,000 in any year after 1993 are exempt from reporting). Also, the U.S. Department of Labor is directed to simplify its plan reporting requirements for plans with fewer than 25 participants for plan years beginning after December 31, 2006.

Starting in 2008, participants will be able to

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tion in Medicare Advantage plans relieves the employer of certain costs associated with the supplemental plan.

Thankfully, employers have a lot of flexibility in fashioning a Part D benefit strategy to meet their needs, including a transition strategy and the option of an exit strategy if they eventually decide on that course. Please call us if you'd like assistance in weighing your retiree drug coverage options. ■



# Are Employee Assistance Programs Worth the Cost?

EAPs can lower absenteeism and reduce medical utilization. These cost reductions can more than pay for the cost of implementing an EAP.



In an era where cost cutting is a top priority, now might not seem like the best time to consider an employee assistance program (EAP).

But an EAP, properly implemented, can provide a significant return on investment (see sidebar, P. 3) and can help you raise the productivity of your workforce, lower absenteeism rates, reduce accidents and help resolve workplace conflicts and complaints.

Surprisingly, the cost of EAPs has remained relatively stable over the past decade, due largely to increased competition and advanced technologies.

An EAP, in short, is designed to identify and resolve personal problems associated with employees whose performance and/or conduct is adversely affected by personal concerns. An EAP may include a full suite of services or just a few. The program can be implemented internally or externally, a mix of the two, or provided by a labor union or packaged as part of existing mental health benefits.

In any case, comparing and selecting the right EAP can be challenging, and assessing the pros and cons of options can be confusing.

Here are the typical components of a full-service EAP:

- ✦ 24-Hour Crisis Telephone Response. Professional EAP counselors provide live, immediate telephone crisis counseling 24 hours/day, seven days a week.
- ✦ Confidential Assessment and Counseling Services. Licensed, professional counselors – experienced in providing EAP services – deliver assessment and brief, solution-focused counseling in safe, private, confidential offices.
- ✦ Referral Support, Tracking and Follow-up. The EAP should assist with referrals for long-term or specialized care based on assessed client need, recommended treatment, client preferences, financial and other resources.
- ✦ Emergency Intervention / Critical Incident Stress Management. Onsite assistance is provided in a timely fashion for emergencies, including critical incident stress management (CISM) defusing and debriefing, and other crisis response needs for management and employees.
- ✦ Substance Abuse Expertise. Given its disproportionately significant impact on the workplace, EAP providers should have specific knowledge, training and experience in the assessment and treatment of chemical dependency and other addictions.

## Making choices

With all the choices available in EAP services, here are a few good questions to ask of potential providers:

*ASSISTANCE—continued on Page 3*

## Happy New Plan Year

When December 31st falls on a Sunday, as it does this year, is December 29th treated as the last day of the plan year? The answer in most cases is yes, according to the Internal Revenue Service (IRS).

Here's the IRS's rule of thumb on such matters: Being "employed" on the last day of the year is not necessar-

ily the same as "working" on the last day of the year. That's because the IRS views employment as a "relationship" between employee and employer. If, for example, the last day of a plan year falls on a Saturday or Sunday and the employee has the status of an employee on the last business day of the plan year, then the employee is considered an employee on the last day of the plan year.

This rule also applies to off-calendar year plans. For example, assume an off-calendar year plan has a last day of the plan year on Saturday, Sep-

tember 30 (as it fell this year). If an employee's last day of employment is Friday, September 29, the employee is considered to have been employed on the last day of the plan year. ■

## Cash or Care?

Fifty-four percent of American workers would take health insurance over a pay hike, found a recent survey by American Payroll Association. A total of 33,000 employees responded to the online survey. ■