



# SPRING VIEW

Vision. Insight. Results.

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### DMEC TOOLS OF THE TRADE

was released during the DMEC 2009 Annual Conference in July. Karen Trumbull English, one of Spring's founding partners, was the lead editor of this publication. Several other members of the Spring team, including Teri Weber and Karin Landry co-authored the publication, which is a comprehensive guide for integrating absence, disability and productivity programs.

## NEWSLETTER

August 2009

## FROM THE HEALTHCARE REFORM BARRICADES — A REPORT

By John Cassell

The impending healthcare reform is almost impossible to ignore these days, and many of our employer clients are concerned about how the final outcome will affect them and their employees. It is still early to say, but a few themes are emerging that might survive the GOP onslaught during the summer.

At the moment, employee expectation and the need to be competitive in the job market force employers to provide coverage. One could argue that good health coverage is linked to better productivity, but often employers remain to be convinced. Therefore, the assumption should be made that most employers would not value providing healthcare coverage to employees, if they could remain competitive from a recruitment and morale perspective.

In fact, in the current economy, the pattern has been to continue to transfer more health insurance cost to employees or, at worst, eliminate the benefit to save jobs. We have also seen a major movement towards using voluntary programs as an alternative to eliminating benefits completely, or as a way to provide benefit value without the cost to the employer.

Certain reforms may therefore find traction with employers desiring to push benefit responsibility to their workforce. Personal taxation of health insurance over a certain threshold, a current proposal, is a reason for employers to reduce coverage to that threshold and make any additional level of taxable benefit a voluntary option.

Another potential reform relies on how much the government believes that proving choice in healthcare is a politically saleable commodity. Currently, some reform proposals allow for the establishment of health insurance exchanges, where individuals or small businesses can buy carefully designed health plans that eliminate some of the current issues they face as an insurance purchaser, such as pre-existing condition discrimination.

These exchanges would not be available to employees with existing coverage, at least not initially, which is unfortunate for employees who realize they could obtain a better deal through the exchange.

Then along comes Senator Ron Wyden's Free Choice Act, which proposes that employees should have choices. They can stick with their existing employer program, or get paid a proportion of their existing coverage, equivalent to their employer's typical contribution, to take outside and buy their own coverage, probably through an

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exchange. Thus, if they currently subsidize their employer coverage by a few thousand dollars a year, they could cut this by selecting a lower cost plan which may just be of better value.

There are many that would say that employers will jump at the opportunity to convert the heartache

of their medical benefit into an employee subsidy, particularly one that will probably increase with less inflation than their old health plan.

These are just a couple of signs that the traditional healthcare model is, of necessity, being pushed into retirement. A critical aspect to these changes is that consumers are much more conscious of the money they spend either in a voluntary or

individual market setting. They are used to shopping around for the best deal using the same tools they use to buy everyday goods, from comparison shopping to on-line auctions.

Linked with government plans to create a more competitive health-care insurance market, this may be just what the doctor ordered for healthcare cost containment.

## IN THE NEWS

### ADA, RELOADED

The original intent behind the July 26, 1990 Americans with Disabilities Act (ADA) – to provide protection to unfairly treated individuals with disabilities – has been restored with the passing of ADA Amendments Act (ADAAA) on September 25, 2008. Effective January 1, 2009, the ADAAA updated definitions of key terms without altering the actual description of disability, allowing more individuals with less severe impairments to be protected. As a result, employers may face additional accommodation requests and should strongly consider reviewing their processes to ensure compliance.

At a glance, the ADAAA changes include:

- Progression towards an expanded interpretation of “substantiality limits,” which would allow broader coverage
- Clarified listing of “major life activities”
- “Mitigation measures” no longer considered in determining an ADA-recognized disability

(ordinary eye glasses and contact lenses are exempt from this rule)

- Individuals with actual or perceived impairments (with exceptions) can be “regarded as” having a disability and protected against unjust treatment
- Individuals displaying “episodic impairments” (such as those suffering from multiple sclerosis or epilepsy) may be protected under ADA even if their condition is in remission
- Vision standards have been revised to deter employers from selecting candidates based on their uncorrected vision unless it is critical to the position being filled

Employers will need to review their current policies to accommodate the ADAAA and follow developments from the US Equal Employment Opportunity Commission as they revise their current regulations to ensure they remain compliant.

If you have any questions about the ADAAA changes and what it means for your business, please contact Teri Weber at (617) 589-0930 x113 or [teri.weber@springgroup.com](mailto:teri.weber@springgroup.com).

### MENTAL HEALTH PARITY

On January 1, 2010, the provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 will become effective. The Act is a reiteration of the Mental Health Parity Act of 1996. The 2008 legislation prohibits limitations for mental health and substance abuse, the latter of which was not addressed by the 1996 Act. Health plans that include mental health and substance abuse coverage will not be allowed to set cost-sharing requirements for benefits that are more restrictive than those set for other (general) medical services.

The provisions apply to both fully insured and self-funded plans, as the Act amends ERISA pre-emption for self-funded programs. Plan sponsors face a potential increase in cost, but this is offset by the fact that: (1) plans are not actually required to offer mental health and substance abuse coverage; and (2) plans are not prohibited from imposing day limits on care visits. Parity will continue to be debated as proponents of behavioral health advocate to further broaden coverage for such services.

## SPRING SIGHTINGS

### LOOK FOR SPRING'S LISTING ON LINKEDIN:

<http://www.linkedin.com/companies/127798>

#### HEALTHCARE

##### NOW A 900 LB GORILLA

Healthcare is a huge cost for most employers. Will the reform proposed by the Obama administration be enough to control the rising costs?

*Captive Review*  
August 2009

##### IN BUMPY TIMES, THE DOL FAST TRACK PROCESS REPRESENTS A PAVED ROAD TO SUCCESS

The DOL fast track process is a proven process for companies with limited time and resources looking to expand their captives and help control the cost of employee benefits.

*National Underwriter*  
August 2009

## CAPTIVE CORNER

### SOLVENCY II

According to an article in *Captive Review* entitled "Solvency II Will Force Captive Closures," the strict regulations of Solvency II may cause several captive insurance companies in Europe to close.

European captives have been given until October 31, 2012 to meet all of the requirements imposed by Solvency II. There is also the risk that other domiciles will adopt the same, similar, or tougher regulations in response to the pressure created by this directive.

## HUMAN RESOURCES AND RISK MANAGEMENT MAXIMIZING WORKFORCE EFFICIENCY

By Teri Weber

Over the years, the line between human resources (HR) and risk management has become increasingly blurred. Although silos still exist at some organizations, many risk managers are taking on an enterprise wide role that legitimately encompasses the workforce. Equally, human resources managers are aggressively looking to maximize workforce productivity and match resources to the changing needs of the organization, an important risk management focus. In the current economy, the opportunity to link these differing skills, and keep enterprises viable while the demand for goods and services is faltering, should not be denied.

Downsizing, and even the threat of downsizing, reduces productivity amongst the remaining workforce and increases the utilization of health and disability benefits as staff try to use their coverage while they have it. As a result, excellent employees who represent the core intellectual capital base of the organization may feel threatened and move on.

In these circumstances, it is difficult to justify any additional investment, but taking control of workforce risks through effective plan management and spending on productivity initiatives translates into gains for employers and employees alike.

For example, the accelerating cost of benefits, exacerbated by downsizing, is encouraging risk and HR management to consider captive funding as a long term cost reduction and management solution. Many companies might have considered a captive in

the past, but the financial rationale is now even greater and directly translates into the number of saved jobs. Equally, there are less scaled back benefits if they are managed effectively.

Alternative funding options, like captives, are an opportunity for risk managers and benefit professionals to work together toward common goals. Companies without a captive in place can consider funding current P&C risks as well as benefits. Where a property and casualty captive exists, a simple feasibility study can determine whether benefits can be easily introduced and estimate potential savings.

Linking risk management, HR and captive funding is also commonly seen in integrating workers' compensation with long term disability. Both can be funded through the same captive, creating a layer of cost stability and long term cost savings. In some cases, the introduction of "unrelated" disability insurance business into the captive creates additional savings by improving the tax efficiency of the overall program.

In addition to funding efficiencies, creating common processes across the workers' compensation and disability program will reduce administrative costs and create a more effective and user-friendly employee experience. Further stages allow integration across other benefits, such as short term disability, AD&D, FMLA and other forms of absence to create additional efficiencies.

The time is now for companies' risk managers and their HR counterparts to bring some or all of the mentioned strategies to the discussion table. These solutions can create major improvements in morale, workforce efficiency and the bottom line, addressing both employee benefit costs and productivity issues—exactly what is needed in these challenging times.

## SPRING'S VIEW

### PANDEMIC PREPAREDNESS

By Melody Kwok and Karen English

The World Health Organization has declared the swine flu a pandemic. Statistics point to the possibility of the H1N1 virus infecting up to 2 billion people worldwide. The disease has already spread to 24 countries.

Considering that the Occupational Safety and Health Administration (OSHA) requires employers to ensure safe working conditions for their employees; workers' compensation claims can ensue; and sick leave, FMLA and other leave of absence can be implicated, both adequate planning and flexibility are key to avoiding disaster.

As the leading provider of waste and environmental services with 45,000 employees across the nation, preparedness is not a new concept to Waste Management. According to Dr. Ben Hoffman, Chief Medical Director, "Waste Management realized its opportunity to plan ahead for the health and safety of its employees, customers and the communities we serve, during the initial wave of concern regarding avian flu risk.

"We began our planning by gathering expertise from the field, and through helpful dialogue with our customers. It has been important to set realistic expectations and identify what resources will be available in order to determine what can and should be done to respond to a pandemic event."

Although every company differs in their "readiness" level and what is practical for their operations and workplace culture, prevention and minimization have become critical concerns. Employers should do everything they can to keep the workplace clean; educate employees on respiratory etiquette; and re-evaluate corporate policies and procedures for time away from work and alternative work locations. Establishing communication protocols for the entire organization is also key, with differentiation placed on internal versus external outreach.

To learn more about what your organization can do or to get connected with other peer organizations for idea sharing, please contact Karen English at 617-589-0930 x105 or karen.english@springgroup.com.

## EVENTS

### VCIA 2009 ANNUAL CONFERENCE

Come visit Spring at the Vermont Captive Insurance Association (VCIA) in Burlington, VT, August 11-13, 2009. Karin Landry, Teri Weber and Mike Clark will be at booth #20.

### EMPLOYEE BENEFIT ADVISOR SUMMIT

Learn about voluntary benefit success stories and how to leverage them for your population. John Cassell will present as part of a panel discussion in Atlanta, GA on September 14, 2009.

### NRRA 2009 ANNUAL CONFERENCE

Spring is sponsoring the National Risk

Retention Association (NRRA) conference which will be held September 23-25 in Washington, D.C.

### SMITH GROUP/MUNICH AMERICAN MAINE EVENT

September 15, 2009 in Portland, ME John Cassell will address current trends in employee benefits.

### NBGH NATIONAL CONFERENCE

Karin Landry will be attending the National Conference on Health, Productivity and Human Capital conference October 13-15, 2009 in Philadelphia, PA.

### CIC-DC ANNUAL CONFERENCE

Come to the CIC-DC Conference in Washington, D.C. on October 21-22,

2009 to meet with John Cassell.

### NBCH ANNUAL CONFERENCE

Karen English will be attending the National Business Coalition on Health conference November 8-10, 2009 in Phoenix, AZ.

### WORLD CAPTIVE FORUM

On November 9-11, 2009, Teri Weber will be attending the World Captive Forum in Bonita Springs, FL.

### LRP NATIONAL WORKERS' COMPENSATION AND DISABILITY CONFERENCE AND EXPO

Spring is exhibiting at this conference in Chicago, IL on November 18-20, 2009. Visit booth #447 to meet with Karen English and Teri Weber.

**Spring Consulting Group, LLC** is a full service consulting firm formed in March 2004 through a management buyout of the U.S. Insurance and Financial Services strategy consulting practice of Watson Wyatt, LLP. Spring provides a full range of strategic consulting services to employers as well as institutions in the insurance and financial services industry. This includes general health and welfare benefits; multinational benefits; captive consulting and actuarial capabilities, with a special focus in the areas of alternative funding and integration (i.e. health, disability, workers' compensation, FML, time off management). Please contact us at (617) 589-0930 or visit us on the web at [www.springgroup.com](http://www.springgroup.com).