VOLUME #3

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May 2020

401K Account Changes

The Coronavirus Aid, Relief, and Economic Security Act made a few changes to 401(k) withdrawals.

Under normal circumstances, if you withdraw money from your 401(k) before age 60, you would face a 10% penalty and a 20% tax withholding. For coronavirus-related distribution, the CARES Act eliminates the 10% penalty and the 20% tax withholding. You will still owe taxes, but instead of having to pay them all in 2020, you can spread the amount over three years.

The CARES Act also increases the 401(k) loan limit from $50,000 to $100,000, but you have 180 days after the Act passed (on March 27) to take out the loan. The increase is optional for employers.

Randall B. Marking
President

COVID-19 and HSA

A growing number of states have mandated health insurance plan coverage for Covid-19 testing, screening, and treatment without participant cost-sharing; but is there unintended tax consequences related to these otherwise important containment measures?

On March 11, the IRS released Notice 2020-15 which indicates that medical care services associated with testing for and treatment of COVID-19 may be provided by a qualified high deductible health plan (HDHP) on a pre-deductible basis, and that this coverage will not interfere with an individual's ability to make or receive health savings account (HSA) contributions. This was welcome news.

Unfortunately, employers still face a dilemma when it comes to insurer and vendor offers of no cost-sharing telemedicine services for all reasons, not just COVID-19 screenings. To the extent an employee is receiving telemedicine services prior to satisfying the HDHP deductible, and the services are not considered "preventive" under existing HSA rules, there is a real concern that employees will lose the ability to make or receive HSA contributions. The hope is that the IRS might provide additional guidance to avoid this result.

The good news is that there may be some options. Employers will want to explore the ability to opt-out of the no cost-sharing telemedicine programs for their employees enrolled in the HSA qualifying HDHP; but I suggest you don't want to give up on encouraging these employees to use telemedicine. You might also consider extra HSA contributions based on telemedicine visits.

I know that all of us are committed to doing whatever it takes to keep our employees safe and healthy, while also working for the public good in the face of the COVID-19 pandemic. Pursuing a course of action that serves your employees' HSA eligibility is a wise choice to maintain financial health as well.

Health Plan Deductibles

Each January 1st most health plans have the member's deductible reset and begin again. Given that most Americans live paycheck-to-paycheck, and a growing number are enrolled in high-deductible health plans, the stress of meeting deductibles is real. Now is a good time to prepare for next year open enrollment and share some ideas that could help employees better manage out-of-pocket expenses.

1. Provide an overview of health care services that are available at no cost or a lower cost than an office visit. For example, suggest that employees:

   - Consult with a nurse for free by calling the nurse line for a consultation before scheduling an appointment with a physician.
   - Try telemedicine. The cost of a telemedicine visit is usually around $40-$50 and can be scheduled at one's convenience via phone or video chat.
   - Take advantage of preventive services covered at 100%. For example, get a flu shot.
   - Always use in-network providers for services.
   - Consider a "convenience care" clinic located in stores like Target, CVS, and Walgreens. They offer a limited number of services at a lower cost than urgent care or a physician visit.

2. Offer tips to manage prescription drug cost:

   - When a drug is recommended, ask how much it costs and if there is an over the counter or generic option. Use GoodRx to check area pharmacies and the cost of the drugs at those pharmacies.

3. Promote use of transparency tools:

   - This is the perfect time to remind employees about tools that help them find out the costs of services. Promote the tools by providing examples and training opportunities. One of the best places an employee can start is with their own personal portal through your group health plan. Encourage your employees and remind them, if they have not already done so, to set up access to their health plan through a personal portal. It is the beginning of a wonderful place to locate a lot of very useful information.

4. A few new ideas; if you don't have these finance management tools in place today, it would be worth investigating them for next year to help with the January out-of-pocket medical expense panic:

   - Some HSA vendors will advance reimbursement for medical bills in January based on the amount committed from the employee's paycheck for the year.
   - Some EOB aggregators will pay the amount due to the provider and assist the employee with a payment plan interest free.

Given that financial issues are the top stressors for individuals, anything you can do to help alleviate the burden of health care costs will contribute to a healthier and more productive employee, and that's a win-win.

Human Resources

Pandemic Changes:

- Employers can ask employees if they have flu-like symptoms, why they are absent from work, and to self-quarantine. Taking temperatures is okay, but organizations should still respect worker's privacy by running tests in private areas.
- You can require employees to stay home if they feel ill or have flu-like symptoms, have traveled to areas with outbreaks, or have been in contact with someone diagnosed with the virus.
- Don't let frontline managers or supervisors give medical advice to workers. Send workers home swiftly if they aren't feeling well and follow up.
- Legal experts are advising that employers should error on the side of safety even when it comes to some liability concerns because of the threat of COVID-19.
- As more businesses have now shifted to a remote workforce, some for the first time, make sure work-from-home policies are updated and shared routinely to keep remote workers productive. Consider having workers track hours and remind them to be readily available during the workday. Regular phone calls or video conferencing can be helpful to give colleagues a feeling of social interaction.

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Government Run Health Care

By now everyone knows how Italy has struggled to deliver effective treatment to coronavirus patients. Reports are emerging from hospitals in the hardest hit areas.

Doctors in Italy know what to do to treat severe cases, but hospitals lacked the beds and equipment for the influx of patients and Italy doesn't have enough doctors even to make the attempt.

Is this more a result of the severity of COVID-19 and the high number of patients, or a long-term failure to invest in the Italian health care system?

Italy has 2.62 hospital beds per 1,000 residents as of 2016. That year, Italy devoted around $913 per capita to inpatient acute and rehabilitative care, compared to $1,338 in France, $1,506 in Germany, and $1,732 in the U.S.

In Britain, it is even worse. The U.S. spent the princely sum of $901.70 per capita on acute care in 2016. The aim in Britain is not to prevent the virus's spread through the general population, which is a foregone conclusion. Rather, the name of the game is delay. British authorities are desperate to hold off on a mass outbreak until the socialized National Health Service has recovered from its chronic winter crisis.

One observation is that the U.K. and Italy are significantly more dependent on a direct government financing of health care than France or Germany.

According to Emostat, the government accounted for 79% of total health care spending in the U.K., 74% in Italy, while Germany's government is only 6% and France is 5%.

This November brings our presidential election and part of one's decision is how much trust one wants to entrust to central planners with one's health.

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LEAPFROG Hospital Safety Grade

Many people spend several months researching when they buy a new car or appliance. How many people have spent that much time researching where to have an upcoming medical procedure? Where do you even start? A first step in your research can be the Leapfrog Hospital Safety Grade (https://www.hospitalsafetygrade.org). The grades are assigned to over 2,600 general acute-care hospitals across the nation twice annually.

The Leapfrog Hospital Safety Grade uses up to 28 national performance measures from the Centers for Medicare & Medicaid Services (CMS), the Leapfrog Hospital Survey and information from other supplemental data sources. Taken together, those performance measures produce a single letter grade representing a hospital's overall performance in keeping patients safe from preventable harm and medical errors. The Leapfrog Hospital Safety Grade methodology has been peer reviewed and published in the Journal of Patient Safety.

Leapfrog works under the guidance of an Expert Panel to select appropriate measures and develop a scoring methodology. The Expert Panel is made up of patient safety experts from across the country such as physicians from Harvard, Stanford, Vanderbilt University, Public Health Services and the Centers for Disease Control and Prevention

How the Leapfrog Hospital Safety Grade is produced

The Expert Panel selected 28 measures of patient safety, analyzed the data and determined the weight of each measure based on **evidence**, **opportunity for improvement** and **impact**. In some cases where a hospital's information is not available for a certain measure, Leapfrog uses a supplemental data source. In cases where a hospital's information is not available from any data source, Leapfrog has outlined a methodology for dealing with the missing data.

The Leapfrog Hospital Safety Grade places each measure into one of two domains: (1) **Process/Structural Measures** or (2) **Outcome Measures**, each accounting for 50 percent of the overall score.

Process Measures represent how often a hospital gives patients recommended treatment for a given medical condition or procedure. For example, "Responsiveness of hospital staff" looks at patients' feedback on how long it takes for a staff member to respond when they request help. **Structural Measures** represent the environment in which patients receive care. For example, "Doctors order medications through a computer" represents whether a hospital uses a special computerized system to prevent errors when prescribing medications.

Outcome Measures represent what happens to a patient while receiving care. For example, “Dangerous object left in patient’s body” measures how many times a patient undergoing surgery had a dangerous foreign object, like a sponge or tool, left in his or her body.

A hospital must have enough safety data available for their experts to issue them a letter grade. Hospitals missing more than **seven** process measures or more than **five** outcome measures are not graded. All hospitals are encouraged to voluntarily report additional safety data through the Leapfrog Hospital Survey, but they are not required to do so to receive a Safety Grade.

Some hospitals belong to health systems that report data to the Centers for Medicare & Medicaid Services (CMS) as a single entity with a shared "Medicare Provider Number (MPN)." This means that individual hospitals within these systems will be graded using the same aggregate data. Leapfrog encourages these types of hospitals to report additional safety data through the Leapfrog Hospital Survey so that patients can see how each hospital is doing individually.

At this time, they are unable to assign a grade to military or VA hospitals, critical access hospitals, specialty hospitals, children’s hospitals, outpatient surgery centers, etc. What grade did your preferred hospital receive? For more information visit: https://www.hospitalsafetygrade.org

Yes, You Can and Should Ask Employees about COVID-19 Exposure

The federal government is in the process of planning a roll out for a phased reopening of the economy; thus, employers have begun strategizing about what return to work might look like for their workforce. A central element in all return to work plans, rightfully, is safeguarding the workplace and protecting employees from infection risk. While in the past, employers would not have been allowed to conduct medical testing or even inquire about employees' medical conditions, the rules have changed in this COVID-19 pandemic.

Based on proclamations from the Centers for Disease Control (CDC), the Equal Employment Opportunity Commission (EEOC) has indicated that employers can consider employees coming to the workplace to be a "direct threat" to safety. This creates relaxed standards under the American with Disability Act (ADA), such that an employer may now ask employees:

"Do you have symptoms of COVID-19?"

"Have you been tested for COVID-19?"

"Do you have or have you had COVID-19?"

The ability to obtain medical information extends to the administration of medical examinations at the workplace, including temperature checks. The EEOC has also indicated that employees, who refuse to answer such questions, or refuse testing, can be excluded from the workplace.

Employers should be cautious about asking questions of certain employees, rather than all employees. There must be a reasonable belief of threat based on object evidence (such as obvious symptoms) if directing inquiries to specific, but not all employees. Employers should also not ask if family members have COVID-19 or common symptoms because Genetic Information Nondiscrimination Act (GINA) prohibits this. A better inquiry is whether the employee has had contact with anyone who has COVID-19, or symptoms associated with COVID-19.

We know that there is a strong desire to protect high-risk employees, such as employees who may be pregnant or those with diabetes. The ADA still prevents employers from making inquiries to determine who might fall into those high-risk populations, or taking other steps that would treat such employees differently, such as requiring them to stay home. Similar prohibitions on different treatments would apply to older employees because of the Age Discrimination in Employment Act (ADEA).

All of this may feel uncomfortable to some employees. COVID-19 related screenings and questions may feel overly invasive, but it also may be required now and in the near future. For example, if you are an employer open for business in Pennsylvania, you are also now obligated by of the Department of Health to implement temperature checks as employees enter your place of business.

Medical inquiries were unthinkable for employers several months ago, but are now an important tool in the fight to create a safe environment for employees. If you haven't yet begun to formulate your strategy to address and minimize the risk of exposure and infection to your worksites, now is the time.

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We are a privately owned insurance benefits firm specializing in the development, delivery, and implementation of employee benefits. Our primary focus is tailoring health care solutions for active and retiree populations. These solutions include our proprietary programs wrapped within a complete package of employee benefits and administration. We are a one-stop shop.

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