



# HR Focus

November 2017

## HR corner

### New York Paid Family Leave: Is it a game changer?

By: **Daniel Margolis, MBA, GPHR, PHR, SHRM-P, Senior HR Partner Regional Consultant**

The leave landscape continues to shift for employers and employees alike. For while the landmark 1993 Family and Medical Leave Act provided job security for up to 12 weeks for leave, it has always been unpaid. Recent trends, however, have seen many states upping the ante with paid leave arrangements supporting a broader range of need.

Now New York State is poised to implement the most generous leave policy of all. It's a bold move.

#### New York paid family leave overview

On January 1, 2018, New York will join California, New Jersey and Rhode Island as the fourth state to provide paid family leave. This benefit will be incorporated under the state's statutory disability policy and is more generous than the 6-week leave proposed by the Trump administration. It follows a growing trend of providing guaranteed wage replacement for employees to have time to bond with a new child, provide care for a close relative or relieve family pressures related to military service. The definition of family extends to grandparents and domestic partners.



#### HR corner

NY Leave game changer ..... 1

#### Health management

Promoting Tobacco Cessation ..... 3

#### Legal and compliance

Time to Impute Income ..... 4

San Francisco 2018 Employer Expenditure Rate ..... 5

#### Communications

Health care costs, Groundhog Day, and educating your employees ..... 6

Key contacts ..... 8

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New York law specifics

Any part- or full-time employee working in New York for 26 weeks and at least 175 days is eligible for paid family leave outside of their paid-time-off allowance. Employees may choose to use sick and/or vacation time to supplement their leave income. Leave may be used for:

- The birth or adoption of a child
- Caring for a close relative with a serious health condition
- Active duty deployment

Year	Weeks available	Max % of employee salary	Cap % of state average weekly wage
1/1/2018	8	50%	50%
1/1/2019	10	55%	55%
1/1/2020	10	60%	60%
1/1/2021	12	67%	67%

Employees will be able to take the maximum benefit in any 52-week period as of the first day the employee takes the paid family leave. This leave will be incorporated under the state's statutory disability policy and will be funded by payroll deductions. As of today, workers' compensation regulations state that "An employer is permitted, but not required, to collect the weekly employee contribution on July 1, 2017, for paid family leave coverage beginning on January 1, 2018."

Who is considered family?

When defining "family," remember:

- State paid family leave regulations are generally more inclusive than the Federal Family and Medical Leave Act (FMLA) and state leaves usually include extended family members, including for some states grandparents and siblings
- Many states also include domestic partners (opposite and same-sex) even though federal law now recognizes same-sex marriage. Now that same-sex marriage is legal in all states, these spouses are to be accorded the same options under all leave policies.

Different state laws: A challenge for organizations

Many employers find it challenging to manage staff across state lines when policies are inconsistent from state to state. It may feel difficult to defend treating large segments of your staff differently simply because of where they are located. You may want to take a step back to determine the best way to manage this patchwork of state mandates. Is there a better approach? Depending on your locations, you'll need to balance cost and employee relations concerns to determine the best answer for your organization.

Even if you don't have employees in one of four states that provide paid family leave, the federal government may make this a requirement in the future. It may, indeed, be time to consider a more consistent policy across organizations.

How should you begin preparing? Consider these steps:

1. Research – Understand the current legal and regulatory landscape and trends in time-off and parental leave programs
2. Develop objectives and options for consideration
  - Involve the right people – including legal and finance – in setting objectives for potential policy changes
  - Determine options that can align with those objectives
3. Evaluate the policy change options across key areas of impact
  - Impact to existing employees
  - Impact on attractiveness of employee value proposition for recruiting
  - Policy cost
  - Administrative cost
  - Anticipated need for future change, given legal and regulatory environment
4. Confirm recommended direction with senior leadership
5. Implement – Update policy documentation, administrative process, and communicate the good news to managers and employees

# Health management

## Promoting Tobacco Cessation

By: **Brittany Clarke, MS, MCHES**, Mid-Market Health Management Practice Coordinator/Resource Assistant

Tobacco use remains the single largest preventable cause of disease and premature death in the United States. It is associated with heart and vascular disease, cancer, poor pregnancy outcomes, and many other diseases. About half of all Americans who keep using tobacco will die because of the habit. Each year more than 480,000 people in the United States die from illnesses related to tobacco use. This means the use of tobacco causes about one out of five deaths in the U.S. annually. Yet, because tobacco is one of the strongest addictions one can have, about 40 million American adults still use it.<sup>1</sup>

Since it has been shown that tobacco use increases health risks and raises medical costs, it also means employing tobacco users can be costly for your company. Employees who smoke are often less productive, take more breaks than non-smokers and are more likely to get sick. According to one study, employers spend more than \$5,800 more in productivity and health care costs per smoker compared to that spent on non-smokers.<sup>2</sup>

To help lower the financial and health impacts of tobacco on the workforce, employers should promote tobacco cessation programs, use tobacco surcharges to encourage quit attempts, and offer tobacco-free workplaces. Here are suggested initiatives designed to help employees succeed and manage this daunting issue.

- **Participate in the Great American Smokeout** – Employers can support their organization's well-being initiatives and their employees by promoting tobacco cessation and by participating in American Cancer Society's Great American Smokeout. Held annually on the third Thursday in November, this year's event is Thursday, November 16. This day gives those who use tobacco a chance to commit or recommit to healthy, tobacco-free lives – not just for a day, but year-round. As part of the event, employers should encourage smokers to make a plan to quit, or to plan in advance and quit smoking that day.
- **Motivational speaker** – Effective encouragement and motivation can help even distant or difficult goals seem more manageable. You may be surprised at the energy and inspiration that a quality motivational speaker can generate for tobacco users who want to quit.
- **Tobacco-free campus** – As recently reported in the Willis Towers Watson *2017 Best Practices in Health Care Employer Survey*, 42% of employers ban the use of tobacco on their entire campus, including outside of buildings and in company-owned vehicles, by way

of formal policy. If your company is truly committed to providing clean air in and around the building, implement a tobacco-free campus policy. This will emphasize tobacco use is not acceptable to your company, make it difficult for employees to take smoke breaks during the work day, and ultimately increase productivity. This may even give employees the push they need to quit smoking. Be sure to properly document and communicate the policy to all employees.

- **Coverage for nicotine replacement therapy** – From nicotine gum to patches, there are a variety of nicotine replacement products available to help ease the transition for quitters. Covering the cost of these products, whether partially or fully, shows that your company acknowledges nicotine addiction is real and can be difficult to overcome – and that you are committed to long-term employee health.
- **Implement a tobacco cessation program** – According to Willis Towers Watson's 2015/2016 *Global Staying@Work Survey*,<sup>3</sup> 89% of U.S. employers offered some form of a tobacco cessation program. Check with your medical carrier, well-being vendor, or even your EAP program to see what tobacco cessation program options may be available. Be sure to continually promote your program offering throughout the year because not everyone will be ready to quit at open enrollment time.
- **Establish a tobacco user surcharge** – Make tobacco cessation a financial win-win. With this incentive program, your company and employees will both see reduced health care costs. Many will be more motivated to stick with their tobacco cessation program if they know they will gain financial reward. Ensure that any tobacco user surcharge program is designed carefully, in conjunction with a tobacco cessation program, and is compliant with applicable wellness incentive rules and regulations.

By implementing these strategies to promote tobacco cessation, employers can support both the organization and their employees.

### SOURCES:

<sup>1</sup> American Cancer Society Great American Smokeout 2017 *Communications Toolkit for Businesses*

<sup>2</sup> Berman M, Crane R, Seiber E, et al. Estimating the cost of a smoking employee. *Tobacco Control* 2014; 23:428-433.

<sup>3</sup> Willis Towers Watson 2015/2016 *Staying@Work United States Research Findings*



# Legal and Compliance

## It's time to impute income on group term life insurance

If an employee has more than \$50,000 in group term life insurance coverage through his or her employer, the excess coverage may be taxable under federal law. If it is, federal law also requires the employer to impute income to the employee. Some employers satisfy the requirement by imputing income on life insurance coverage as it is provided during the year. Others wait until the end of the year. While it is generally recommended that employers track the value through the year, both methods are permitted as long as imputing is completed by the end of the year.

### Background

The federal tax code excludes the cost of the first \$50,000 in group term life insurance coverage that an employer provides to an employee. Because there is no tax code exclusion for additional employer-provided coverage, the cost of excess coverage is subject to federal income and FICA (Social Security and Medicare) taxes. The employer providing the excess coverage must report the cost of it on the employee's W-2 and must withhold the employee's portion of FICA taxes and pay the employer's portion.

**Note:** *The imputing requirement may be avoided in some cases if the premium rates under the group term life insurance policy(ies) meet certain requirements.*

### Employee Pays, But Employer Provides

If an employee pays the entire premium for life insurance, one might assume that the coverage is not employer-provided. For group term life insurance, however, that is not always the case. First, if the employee pays for coverage using pre-tax dollars, the coverage is treated, for tax purposes, as if the employer paid those premiums. Second, even if the employee pays the entire premium on an after-tax basis, the coverage may be considered partly employer-provided. That can happen when the cost of coverage for tax purposes is higher than the premium that an insurer charges.

### IRS Determines the "Cost" of Group Term Life Insurance

IRS regulations include a table of rates (reproduced below) for calculating the cost of excess group term life insurance for tax purposes. The Table I rates are not indexed for inflation, so they do not change each year – the rates are the same for 2017 as they were for 2016 and will not change until the regulations are revised.

**Table I Rates for Group Term Life Insurance:**

Monthly Cost/\$1,000 of Coverage	
Age Bracket*	Rates
Under 25	\$0.05
25-29	.06
30-34	.08
35-39	.09
40-44	.10
45-49	.15
50-54	.23
55-59	.43
60-64	.66
65-69	1.27
70 and over	2.06

\*When imputing income for 2017, use the employee's age on December 31, 2017.



Of course, the IRS-determined rates may be higher or lower than the premiums actually paid for group term life insurance coverage. If the IRS rates are higher, an employee who paid 100% of the premiums for excess coverage with after-tax pay may nonetheless have additional taxable income due to the excess coverage as deemed by the IRS measurement of value.

### Determining the amount of income to impute

If an employer pays the premiums for all of an employee's group term life insurance coverage, determining the amount to impute is easy: subtract \$50,000 from the total group term life insurance coverage in effect for the employee during the year and multiply the remaining coverage amount by the applicable Table I rate. If the employer does not pay all of the premiums, but the employee's contributions are made on a pre-tax basis, this same calculation applies.

If the employee pays all or part of the premium for any group term life insurance coverage (including the first \$50,000) on an after-tax basis, an additional calculation is needed. After finding the Table I cost of all coverage above \$50,000, as described above, deduct from that amount all of the employee's after-tax contributions toward the coverage (including contributions for coverage under \$50,000). If the result is a positive number, that is the amount to impute.

***Note: If an employee is covered by more than one group term life plan, the IRS requires aggregation of all coverage so that the employee may not exclude the cost of more than \$50,000 in coverage for the year.***

### A note about dependent life insurance

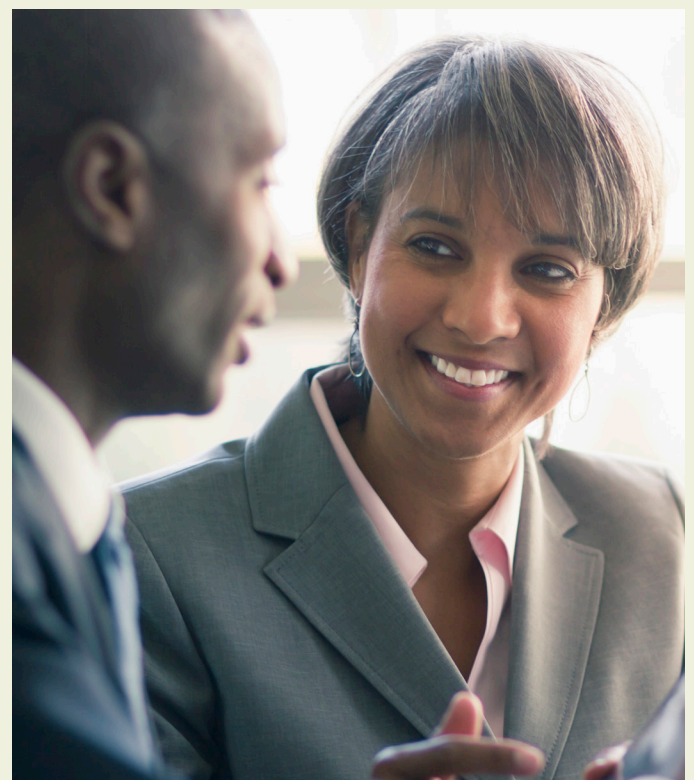
Employer-provided dependent life insurance is taxable unless the amount of the insurance is less than \$2,000. If the coverage exceeds \$2,000 then the full amount of the dependent life insurance is taxable, including the first \$2,000.

## San Francisco's 2018 Employer Expenditure Rates

The 2018 employer health care expenditure rates are available from San Francisco's Office of Labor Standards Enforcement (OLSE). In 2017, the health expenditure rate for a large employer (100 or more employees) was \$2.64 per hour. For 2018, this rate will be \$2.83. For medium-sized employers (20-99 employees), the 2017 rate was \$1.76; for 2018, the rate will increase to \$1.89 per hour.

### Background

San Francisco's Health Care Security Ordinance (HCSO) requires that medium and large businesses make certain minimum contributions toward their San Francisco employees' health care. Under this mandate, an employer may either contribute at least the minimum amount to a medical plan or other health benefits or pay that amount into the publicly available program established by the HCSO. (Additional details on the HCSO's requirements can be found [here](#).)



# Communication

## Health care costs, Groundhog Day, and educating your employees

By Lisa Beyer, Senior Communication Consultant, Value-Added Services

If you're like me, reports that health care costs are increasing and will continue to do so feels a little like the popular 1993 movie, *Groundhog Day*. It's the same thing over and over. Ironically, health care costs leading up to 1993 were growing so fast that in September of that year, Congress was asked to "fix a health care system that is badly broken." More than 24 years later, many would agree that it still needs to be fixed.

Needless to say, employers, who are the bedrock of the health care system (providing coverage to 157,381,500 or 49% of Americans in 2016<sup>1</sup>; a decrease from prior years) can't rely on the government to halt rising costs. Instead, programs such as free preventive care, biometric screenings, health risk assessments, on-site exercise facilities, weight loss and tobacco cessation programs and numerous other wellness initiatives have become the "norm" for many employers seeking to reduce their health care spend.

The 2015 Willis Towers Watson Best Practices in Health Care Employer survey<sup>2</sup> showed that nearly 46% of employers offered telemedicine services in 2015 (10% incented use with lower costs), while less than 10% of employees accessed care. It also showed that among the top three significant employee/provider behaviors driving medical costs per person is "overuse of care due to employees seeking inappropriate care (54%) and underuse of preventive services (31%).

Because employees and their behaviors drive costs, it's important to let them know what's available, why it can help them save money and how that impacts everyone's costs – and to do it often. Employers may want to convey high-level messaging that includes, but is not limited to:

- We strive to provide you with quality, affordable benefits.
- Health care costs are increasing significantly, greatly impacting everyone's costs.
- It's important that you consider how you can use your benefits to your best advantage to help to keep costs down.
- This includes comparison shopping, when appropriate.
- Health care costs can vary by provider.
- Use preventive care to avoid expensive hospitalizations.
- Avoid costly emergency care unless faced with a life-threatening situation.
- Take advantage of our [outline various wellness programs, including physical, emotional and financial].

According to a 2013 study, more than \$18 billion could be saved annually if those patients whose medical problems are considered "avoidable" or "non-urgent" were to take advantage of primary or preventive health care and not rely on emergency rooms for their medical needs.<sup>3</sup> That same study revealed that only 7.9% (11.2 million of the 141.1 million emergency room visits a year) of emergency room visits resulted in hospital admissions. Following is an example of an email campaign to help employees understand how their choices impact costs.

The role you play in managing health care costs is simple: Spend your health care dollars wisely. Each time you go to a medical provider or receive medical services, you generate a claim that must be paid for through our health care plan. Essentially, the costs of your claims, and all your coworkers' claims, determine the price you and ABC Company pays for your health benefits. In the end, decisions you make directly affect the year-to-year increases in the cost of your health care coverage.

### *Emergency room versus urgent care or your regular physician*

- Our health care plan provides coverage for treatment that can be received in a variety of settings, such as your doctor's office, a hospital or an urgent care center. Your responsibility is to determine which setting provides the best, most cost-effective care for your condition.
- Review your benefits and know your copayments and coinsurance amounts for an office visit, urgent care facility or a hospital emergency room. Learn about what is required of you if you need to seek medical care when you are out of town.
- For most illnesses and injuries, and for regular checkups and preventive care, your doctor can provide the most cost-effective care. Your doctor knows you best, has your medical history, and has the expertise to diagnose and treat most conditions.
- Many situations require immediate care, but might not be serious enough for care in a hospital emergency room. In these situations, a walk-in clinic or urgent care center may be an appropriate choice. Care received in an urgent care facility is costly, yet less expensive than an emergency room.



It's critical to keep educating your employees throughout the year. There may be strategic times to relay certain information, such as telemedicine services at the beginning of the year, preventive care when it's part of a wellness incentive program and your employee assistance program before the holidays when depression issues and family conflict tend to peak.

Make sure to use compelling examples. Share cost comparisons such as, "Did you know that the cost of treating an allergy in an emergency room averages \$345, but only \$97 in an urgent care center?"<sup>4</sup>

If you offer telemedicine services, promote their use regularly through a variety of delivery channels, including home mailers, posters, emails and possibly even a coordinated campaign at the beginning of the year. Use case studies to illustrate how employees saved time – and money – by accessing care for routine illnesses via telemedicine providers.

Before you begin, it's important that you understand the health issues of your employees and focus communication efforts in those areas. For many employers, that might include smoking

cessation, weight loss and mental health. Your carriers probably have educational materials and programs to support your efforts and you can access additional resources, including videos, online.

Take the time to help your employees become better consumers of health care and you may see some positive results. It's a new "day" and communication can lead the way.

<sup>1</sup> Kaiser Family Foundation estimates based on the Census Bureau's March Current Population Survey (CPS: Annual Social and Economic Supplements), 2014-2017.

<sup>2</sup> [2015 Willis Towers Watson Best Practices in Health Care Employer survey](#)

<sup>3</sup> National Hospital Ambulatory Medical Care Survey: 2014 Emergency Department Summary Tables, tables 1, 4, 15, 25, 26[PDF – 1.9 MB]

<sup>4</sup> Wise Bread, February 23, 2010



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