

The background of the slide is a grayscale electron micrograph of a cell, showing various organelles like mitochondria and membranes. Overlaid on this are several semi-transparent blue circles of varying sizes, scattered across the image, possibly representing viral particles or specific cellular components.

COVID-19 Employee Benefits Checklist for Employers

March 20, 2020

COVID-19 employee benefits considerations

Background

- The following slides are a list of employee benefits, leave and policy considerations due to worker impacts from COVID-19. This list is not meant to be exhaustive but a guide to help employers think through all the pieces to support their employees and the employees' families

COVID-19 employee benefits checklist

Health and pharmacy plan coverage considerations

- Testing
- Treatment
- Other conditions with similar symptoms (inpatient and outpatient)
- New or experimental vaccines
- Designated provider coverage / recommendation of designated place for services
- Coverage for telemedicine vs. office visit (physician, urgent care)
- Pharmacy coverage policies for 90 day supplies, easing 'refill too soon' and other utilization management restrictions, prior authorization criteria; formulary tiering, site of care transition, OTC product coverage
- Hospital indemnity coverage
- Critical illness coverage
- Maternity coverage or subsidy (which may have to be post-tax) for birthing centers (which are not always covered) and doulas

COVID-19 employee benefits checklist

Leave benefit considerations

- Benefit coverage while on leave/contributions/make up contributions
- Accountability and options for caregivers for children, elders, spouse, loved one
- Job protection
- New hires, non-benefit eligible, personal unpaid leave for how long
- Days paid – policy if quarantine or sickness still in effect after benefit ends
- STD coverage
 - Transition of sick-leave
 - Waiting periods
- Union (collective bargaining) considerations
- Leave available if diagnosed with COVID-19
- Leave available if subject to quarantine due to family member with COVID-19
- Leave available due to child care / school closures due to COVID-19
- Leave available for elderly caregiving due to COVID-19
- Return to work policies
- Flexible work / work at home policy (may include subsidy or reimbursement for critical office supplies)
- Workers Compensation
- Doctor's note / medical certification
- Bereavement leave
- Ensure policies don't "harm" employees for staying home from work if they are sick

COVID-19 employee benefits checklist

Financial impact considerations

- Demographic and risk stratification of age and chronic health conditions – is your organization at a higher risk?
- Cost for office or telemedicine visits
- Cost of treatment (medical, ICU, prescriptions)
- Cost of accommodation (easing ‘refill too soon’ and other utilization management restrictions)
- Cost of paid leave
- Future underwriting costs / 2021 pricing considerations
- Stop Loss policy impact
- Pre-65 retiree plans
- Post-65 retiree plans
- Margins for IBNR
- Reduction in dental claims
- Increase use of telemedicine, tele-behavioral health, EAP, mail order Rx
- Decrease in non-urgent visits to PCP and specialists
- Decrease in elective surgeries

COVID-19 employee benefits checklist

Vendor considerations

- Policies of coverage and/or contracts for medical, pharmacy, telemedicine, hospital indemnity, and critical illness, disability and life insurance
 - Exclusions and limits for epidemics / pandemics
 - Contract amendments, SMMs, etc.
 - Case management between carriers
 - Alternative solutions for carrier shut downs
 - Medical
 - Mail order and specialty pharmacy delivery
 - Accessing prescriptions out of network with direct claim submission
 - Nurseline
 - EAP
 - Telemedicine
- Fiduciary Oversight
 - Review of vendor contracts and evaluation of potential areas of breach
 - Evaluation of force majeure clauses that may excuse a party's contractual obligations when circumstances beyond their control occur
- Training and communication of resources for working with members experiencing issues

COVID-19 employee benefits checklist

Compliance considerations

- Group Health Plan Status and Design
 - Offering COVID-19 testing to non-benefits eligible/waived employees - group health plan/excepted benefit analysis
 - Accommodation of the need to use OON providers if IN providers are not available
- ERISA Reporting and Disclosures
 - Changes to plan terms and coverages may trigger the need for plan amendments, SPD updates, SMM distributions, etc.
- HIPAA Privacy and Security
 - Review HIPAA policies and procedures to confirm alignment with HHS guidance (including pandemic guidance)
 - Confirm understanding of differences between employer functions and plan functions
- COBRA
 - Qualifying events due to reduction of hours and loss of coverage; should consider how they will make sure notices are timely distributed and COBRA elections are implemented.
- Health Savings Accounts (HSA) Eligibility
 - Pursuant to recent IRS guidance, employers with HSA-qualifying high deductible health plans may cover COVID-19 testing and treatment on a first dollar basis without impacting HSA eligibility
- Cafeteria Plan Mid-Year Election Changes
 - Reduction in hours may permit participants to drop employer coverage for other coverage such as public Marketplace or spouse's plan)
 - Certain events would permit employee to enroll mid-year (e.g., marriage, child birth and loss of other employer coverage)
- Leave
 - Understanding of geographic footprint and the changing jurisdictional mandates that may impact an organization
 - If applicable, compliance with a major disaster leave-sharing plan (PTO donation plans)
- Employment law considerations that may overlap with H&W compliance and should be discussed with qualified employment counsel
 - ADA: testing, certification, confidentiality, fitness for duty, work at home, leave, request for accommodations, etc.
 - Understanding of implications related to furloughs (including ACA employer mandate), including application of PTO, WARN, FLSA and coordination with unemployment insurance
 - Confirmation that employer policies are consistent with the most recent EEOC COVID-19 guidance
- ACA Employer Mandate
 - Consider effect of work stoppages, furloughs, reduction in hours, etc. to employees in a stability period.

****In-house counsel should review compliance considerations prior to the implementation of changes that could have legal consequence***

COVID-19 employee benefits checklist

Communication considerations

- Employers are addressing health, EAP and other benefits available to support employees during this time of uncertainty. In addition to working from home and travel guidance, the communications may include:
 - Promotion of telemedicine services
 - Promotion of EAP for support (stress, mental health, etc.)
 - Resources and coverage offered through medical carriers, including testing being covered at 100%
 - Prevention information and tips for how to stay healthy
- To deliver these messages, they are using the following tactics:
 - Emails to employees
 - Banners and pages for microsites/portals
 - Digital signs
 - Banners or web ads for intranets

COVID-19 employee benefits checklist

Financial wellbeing considerations

- Temporary 401(k) contribution suspension
- Change in pre-tax deductions (HSA, dependent care FSA, qualified transportation benefits)
- Paid sick leave
- Paid parental leave
- Paid caregiver leave
- Emergency fund support
- PTO donation
- Support on government programs
- Delivery service perks (Amazon, Instacart, Fresh Direct)
- Discounts
- Rideshares (encouragement to avoid public transportation)
- Emergency loan programs
- Financial hardship

COVID-19 potential financial wellbeing solutions

Financial wellbeing hardship considerations

- Employee group cash-pooling, emergency loan/grant committee
- Negotiate emergency banking overdraft fee protection/exemption with local bank used by your low income employees
- Emergency loan with no credit rating
- Auto repair, gasoline, heating vouchers (most common sources of short term cash needs) or agreement with local provider to give on credit to your low income employees
- Tax filing services to accelerate refund
- Immediate reduction of non-essential living costs to those who may go without a paycheck
- Negotiate preferred treatment with local pawn shop for low income employees
- Mortgage and rent extension voucher/statement of commitment to assist
- Ensure 401(k) or 403(b) plan does not restrict loans and hardship distributions beyond what is required under IRS rules
- Monitor possibility of implementing any expansion of loans and hardships permitted under stimulus legislation
- Expedited processing of 401(k) hardship and loan
- Paycheck advance agreement
- Small business owner emergency loans
- Small business lease term relaxation
- Small business "hygiene kits" to low income employees, especially those with children who carry asymptomatic
- Small business virtual network to share ideas and resources
- Small business employee network to share family caregiving resources
- Small business employee "caregiving kits" to instruct employee/communities groups to form sanitary childcare arrangements (take turns with childcare, use sanitary practices, hygiene equipment)
- Small business "hygiene safe" carpooling (sanitize vehicle, handles, bleached cough-protection towels)
- Banking and check cashing services (many lower income neighborhoods do not have banks and several cultures are averse to using banks)
- Carpooling/ride-sharing to bank and check cashing facilities (many lower income neighborhoods do not have banks and several cultures are averse to using banks)
- Carpooling/ride-sharing/delivery of essential goods

Disclaimer

Willis Towers Watson shares available medical and pharmacy research and the views of our consultants in our capacity as a benefits consultant. We do not practice medicine or provide medical, pharmacy, or legal advice and encourage our clients to consult with both their legal counsel and qualified health advisors as they consider implementing various health improvement and wellness initiatives

When implementing health improvement and wellness initiatives, clients should consider the compliance implications and discuss with their legal counsel and the applicable vendor. If the vendor's services are offered through an existing medical plan, clients should ensure the terms of the program are properly disclosed to participants in plan materials. If a client offers a HSA-qualifying high deductible health plan, then HSA-eligibility issues should also be considered. If the vendor's services are offered outside of the existing medical plan(s), then the services being provided must be evaluated to determine whether the program would on its own be considered a group health plan and therefore be required independently to comply with various applicable laws (e.g., ERISA, HIPAA, COBRA, ACA)