# The Benefits Package

## Why Should I Have a Plan? What Should It Include?

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WHETHER YOU ARE CREATING A BRAND-NEW BENEFITS plan or maintaining an existing program, it's essential to use a guiding framework for decision making and implementation. Don't feel bad if you can't outline a benefits strategy; most employers are likely to draw a blank if asked to describe one. This important first step is often skipped in favor of the too common organizing principles of keeping up with the company down the block and responding to specific needs of the most senior decision makers. These approaches can result in unnecessary offerings or a nasty surprise when the cost spikes for an item provided to satisfy a very small group. Other employers concentrate their energies on keeping up with spiraling costs, accepting annual increases without question as inevitable. Organizations that look at the big picture change the focus of employee benefits from staring into a black hole to a business strategy.

### What Is a Benefits Strategy?

A benefits strategy provides a blueprint for decision making at the point where financial considerations intersect with the employment

WORTH REPEATING

*Never Doubt the Benefits of Ice Cream*

Dixon Schwabl earned the honor of number one on the 2008 Best Small Company to Work for in America list. This 70+ employee marketing and advertising firm in Victor, New York, gives all employees a paid "Make It Happen Day" to volunteer with the nonprofit of their choice—and treats staff to ice cream once a week during the summer.

relationship. This is the foundation for your answer to the question, "Why should I have a plan?" Organizations may describe themselves as seeking to be "an employer of choice." Though adopting this mantle will mean different things in different industries and workplace cultures, employee benefits will always be an important part of the equation. If you aspire to be named as one of AARP's Best Employers for Workers Over 50, your focus will include health and pension offerings and retiree health coverage. The Great Place to Work Institute, the research organization that interviews more than 100,000 people to identify the Fortune 100 Best Companies to Work For and the Best Small & Medium Companies to Work for in America, notes on-site fitness centers, number of holidays, health and wellness programs, and retirement among valuable factors in reaching rankings but makes special reference to unique initiatives as important components of employee satisfaction.

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## *Three Questions About Your Benefits Strategy*

As you work to frame your company's health benefits strategy, you need to answer three basic questions.

### 1. What Role Do Benefits Play in Recruitment and Retention?

If you are competing for the same hires against employers who provide premium benefits, this will become a factor in your decisions.

It does not mean you automatically risk losing employees if you don't offer identical plans. Your work environment may include perks or a culture that has a greater impact on job satisfaction. The inclusion of cost-effective voluntary benefits can also be a powerful way to add value to an employment package. These are extremely attractive to a diverse and changing workforce and typically are paid for primarily by employees through easy-to-handle payroll deductions.

Benefits offerings will play a different role during the various points in career and life paths. Work environment perks and more creative lifestyle initiatives inspire the newest and youngest members of the workforce. Middle and upper managers who have been building a résumé for seven to ten years are more likely to focus on health and economic security as they settle into family life.

If you value longevity, benefits that reward length of service must be a key component. Employers who tolerate higher turnover to encourage a constant flow of new perspectives will focus on elements with short-term results. Organizations that employ a greater percentage of temporary or part-time staff in response to seasonal fluctuations will provide only minimal benefits to this segment of the staff and more robust offerings to the full-time contingent. Include the potential of changing demographics, such as the upcoming retirement of baby boomers when identifying these considerations, but take care to ensure that single employees won't feel slighted by spending that is heavily tilted toward family needs.

Employee engagement for all employees increases with benefits understanding and satisfaction. An employee who spends 20 minutes at his or her desk on hold waiting to talk to an insurance company representative, and is then told to call another number, will be unhappy and share this discontent with coworkers.

### 2. What Benefits Are Offered by Employers in the Same Industry or Geographic Area?

A survey of other companies' benefits should be conducted once each year before benefits plans are renewed or updated and whenever a new offering is contemplated. Useful information is available from benefits and human resource professional organizations, foundation research, local and regional business groups, and

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WORTH REPEATING

*Don't Play the Matching Game*

A brand-new hospitality company surveyed competitors to find that benefits provided by well-established companies in the market were virtually identical. The offerings did not seem to match newer concepts and employee populations so they focused on budget and worker needs in creating plans. Before long other companies were copying the start-up.

industry or trade associations. Data can be obtained without charge or at a range of price points for specific information or targeted surveys from consulting firms. Published information can be augmented by a project undertaken by an internal staff member who has an understanding of benefits terminology.

There is no need to panic when your most valuable employee brings you a glossy multipage brochure describing every imaginable benefit—from personal concierge to long-term care—offered by the "hot" company across town. This information can be integrated into existing results or trigger a new benefits survey. An effective approach identifies the offerings of employers who draw from the same pool of candidates, evaluates the competition, and has the potential to yield information about new or creative options. The local geographic area will be the source for information about positions that can be filled from the immediate population, but a broader survey is needed for roles that require recruitment from a wider talent pool.

Review the complete information to identify your best options in response to the competition. A new, large employer with very generous benefits can pose a threat with the potential to poach your talent. Although it may not be realistic to match all the expensive items, you can select those that are most important to your staff. Convene focus groups or conduct an employee survey to differentiate the real wants and needs from components that are nice but not essential.

Combine any efforts to seek employee input with education about the contents and costs for employer-sponsored plans. Remember that

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the life stages of your workforce will change. In a new location with a very young population, internal survey results may place a very low priority on long-term savings. Enrollment, vesting schedules, and company contributions should be tweaked before a retirement savings plan is eliminated in favor of providing an on-site holistic healing clinic. Disseminate the results of employee input, along with clear explanations and information, as the basis for decision making. In response to employee feedback, demonstrate sound responsiveness by offering a plan that includes a dental benefits provider affiliated with a large local practice, and fiscal responsibility in explaining that housing a day-care center is just too expensive.

### 3. How Much Can You Spend Now and in the Future?

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Providing employee benefits is a significant financial commitment but it does not have to be a blank check. Dollar amounts included in forecasts and budgets, whether they are for one, three, five years, or longer, should be backed up by information from benefits decision makers. Yes, it is difficult to project expenditures, particularly for health care, but budgeting can be used to drive plan design and employee cost-sharing equations. When a renewal quote includes an unanticipated double-digit increase and immediate cost savings cannot be found, steps can be taken to stem the trend for subsequent years; this is the time to lay the groundwork for the potential of significant changes including an entirely new plan design or patterns for employee cost sharing. Scaling back employee plans is never popular and will be more likely if multiyear forecasts are not created.

Calculations are commonly represented as a percentage of wages. The United States Bureau of Labor Statistics (BLS) reported that the national average cost of benefits for all civilian workers was 30.2% of wages at the end of 2008. This represents a rise in 2 percentage points from 2003 when the same statistic was 28.2%. Average costs range from 27% to more than 33% of payroll dollars based upon industry, location, and occupation. BLS publishes statistics broken down by broad regions (the 14 largest metropolitan areas in the country), as well as by worker characteristics. Don't be shocked if the benefits percentage in your organization is significantly higher. BLS statistics bundle information from all employers, whether or

not they offer benefits plans, including those who only provide mandated coverage or hire large numbers of part-time employees. Statutory benefits cost employers a relatively stable average of 8% of compensation. Unemployment and worker's compensation payments will vary based on employer experience and industry trends. Begin building the cost structure by using statutory benefits as a base and identifying the additional spending you are prepared to make to create a total budget.

When staffing levels fluctuate, identifying costs as a percentage of payroll will be the most useful measurement. A zealous accountant may seek specific projections when demographics change. This makes sense when 100 new employees are added primarily from a population of recent college graduates who will be working for many months before they are eligible for medical coverage—but should not extend to initiating a questionnaire that asks employees about plans for starting a family.

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## Who Is Going to Be Eligible for Benefits?

Eligibility decisions have two parts: who will be able to participate in plans and when does coverage start? Coverage can be based upon employee classification or status but must be administered consistently within each group. The definition of who can participate will be included in any agreements written by plan providers. Employers should have published definitions of the difference between full- and part-time status and any other classification used in their workplace, such as temporary or casual. Employers should consider aligning a description of full-time status eligibility for health benefits with the PPACA that defines full-time employees as individuals who worked at least 30 hours a week during the previous calendar year. These should be in writing, provided to employees, and specifically included in each plan eligibility description.

### *What Benefits Should I Give to Part-Time Employees?*

Employers commonly limit part-time employee benefits to prorated vacation and holiday pay. After completing competitive research

BETTER FORGOTTEN

***But I Thought They Were Part-Time***

A real estate management company provided benefits for all full-time employees and gave everyone an employee handbook, but there was no definition of full- or part-time. The office manager made decisions when people were hired. One employee who had been working a full week reduced her hours to one shift on the weekend in order to finish college. Eight months later the office manager noticed the drop in hours, terminated the employee from the plan and sent out a COBRA letter. The employee protested, citing the lack of definition of employee classifications. It took many more months, premium dollars, and extension of the COBRA start date before the discrepancy was settled.

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and creating your benefits philosophy, you may decide that these workers should also be able to participate in health benefit plans and other options. If your organization relies on a stable, part-time workforce, this decision will make more sense. A fluctuating staff with limited hours can incur additional indirect costs due to complicated and time-consuming administration.

The design of 401(k) and defined benefit retirement plans create an exception to an employer's ability to broadly define eligibility. Federal law governing employer-sponsored retirement plans requires employers who offer these plans to include all employees who are at least 21 years old and work 1,000 or more hours during an eligibility year.

### *When Does Coverage Start?*

Policies about waiting periods for eligibility will be driven by competitive data and administrative considerations. It will be easier to enroll and track employees if there is some consistency in these dates. Imagine the headaches created at a company that enrolls employees for medical coverage after 60 days, dental at the end of six months, allows sick days with 120 days on payroll,

and awards vacation time off upon completion of nine months of service. Though it may not be possible, or desirable, to identify a single eligibility date for all benefits, using the same time frame as much as practicable will simplify record keeping and communications. One date can be used for health coverage and paid time off, while entry into the retirement plan requires a longer waiting period. Record keeping is also made easier when enrollment and eligibility begin on the first day of a calendar month. Check payroll and HRIS capabilities to identify capacity for tracking and deductions to match plan parameters.

The most common waiting periods for health coverage are 30, 60, and 90 days. Effective January 1, 2014, the federal PPACA will preclude waiting periods that are more than 90 days. These have lengthened with the availability of COBRA continuation. Longer waiting periods are suitable when there is high turnover during the early days of employment, unless the lack of benefits is one of the reasons for the churn. If health benefits enrollment dates become an issue during a hiring negotiation it is not necessary, or advisable, to seek or create a plan exception. The better approach is to offer to reimburse COBRA expenses or the cost of individual insurance, thus saving money and preserving consistency. A time-off policy exception will make sense for the department manager who has a ten-day summer vacation planned six months before he would be eligible for any paid days off. You can determine whether you will pay all or part of the time off and include the exception, in writing, in an offer letter. Don't feel obligated to continue wages during a vacation taken during the first few months of employment; the individual who is changing jobs is probably being paid for unused days by his or her previous employer.

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### *What About Benefits for Employees' Domestic Partners?*

Benefit coverage for employees' domestic partners have been increasing in popularity since they were first offered during the 1980s. In 2008 35% of U.S. private employers, including 52% of Fortune 500 companies, extended eligibility for health care benefits to domestic partners. Your benefits provider will be able to tell you if adding this benefit will have an impact on premiums. Once you make the decision to offer domestic partner coverage, you will need

to identify the documentation required for eligibility. Employers in locations where any type of government registration of domestic partner status is available can require proof of registration to provide the benefit. Where local registration is not available, the requirements from a nearby municipality can be incorporated into your policy. Any standard you create must be applied consistently; don't offer domestic partner benefits to all employees and then require proof of registration for same-sex couples while covering a heterosexual couple simply because "everyone knows they've been living together for ten years."

The cost of providing health insurance for domestic partners must be considered taxable income and included on annual W-2 forms. Employer payments for qualified health benefit plans available for employees, their spouses, and dependents are not treated as taxable income; a domestic partner, whether same-sex or not, cannot be considered a spouse under federal law. Avoid year-end surprises by communicating this information at the time of enrollment.

### *Can I Put My Brother on the Plan?*

Check eligibility rules carefully before you set up company-sponsored group benefits with the intent to cover your extended family. The employer who decides to cover his elderly parent should be prepared to identify the nature of the employment. Putting a parent on payroll as a consultant, when she lives thousands of miles away and does not have any visible responsibilities, creates a red flag for a fraud investigation.

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### *Should the Benefits Philosophy Be Summarized in a Written Statement?*

Business plans and decisions are more effective when they are focused on a goal. A benefits philosophy can create this goal or guiding principal.

Here are two examples:

*The ABC Company provides benefits that ensure complete coverage for all employees and their families in the event of major health care expenses and loss of income due to a serious illness, allow for*

*savings and accumulation of funds for a comfortable retirement, and offer time away from work for vacation and personal matters. ABC employees are provided with the knowledge and tools needed to effectively participate in mandatory wellness programs to improve health and be active consumers of care through educated purchasing decisions.*

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*XYZ Inc. provides employee benefits at a variety of levels that respond to individual needs identified through constant communication and input. Each year the annual benefits budget will be identified and communicated to all employees. Annual benefits budget increases will not exceed 8% over the previous year for all options combined.*

A well-thought-out benefits philosophy statement should not be kept a secret. It can provide the core of an explanation to staff of the reasoning behind benefits decisions, demonstrate consistency, and be used in recruitment materials.

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## What Benefits Are Employers Required to Provide?

The most costly workplace benefits, health and retirement, are not mandated by law. When provided, these are often highly regulated by states and the federal government.

### *Does Health Reform Change Everything?*

The Patient Protection and Affordable Care Act of 2010 (PPACA) does not require employers to offer health coverage, but as of January 1, 2014, it does assess penalties on an employer of more than 50 employees who does not offer health benefits, and it contains a number of specific requirements that affect employer-provided plans. The PPACA also establishes a national voluntary long-term-care plan that is paid for through payroll deduction effective January 1, 2011. A time line of these items is included in a separate chapter.

Both unemployment insurance and workers' compensation are mandated by federal legislation but administered by each state. The many variations in regulations and administrative requirements make it impossible to cover these comprehensively in this volume. This overview will provide generalized information and direction for additional resources.

### *Workers' Compensation*

For almost a century workers' compensation has protected both employers and employees. The availability of medical coverage and compensation protects employees in the event of a work-related illness or injury while employers are shielded by law from suits for damages by the affected employees. Benefit levels are mandated by each state and can vary widely in both the amounts paid and the processes for administration. In all states workers' compensation laws prohibit individuals from seeking additional damages from their employers for workplace accidents and sickness.

Workers' compensation expenses are paid through specialty insurers and state-administered funds. This kind of coverage is experience rated; the higher the level of expenses the higher the costs. For a new or very small employer the experience rating will be based upon a common industry and geographic area. Although workers' compensation often seems like a black hole of uncontrollable expenses, employers can take steps to reduce illness and injuries through effective workplace safety and monitoring programs. Workers' compensation carriers will provide additional resources for these efforts.

Cost savings can be achieved in states where employers are allowed to direct or manage care. Check with your insurer to see if you can designate specific providers or require second opinions. When employees are out of work for extended periods of time, keeping in touch on a regular schedule will continue a connection to the job and can hasten a return to work. Employers also reduce expenses by instituting light-duty programs or reduced work weeks that return people to the workplace gradually and provide impetus to get back to their "real" jobs. It is important to understand reporting requirements and specifics about injuries covered away from an employer's

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*Weekend Warriors Increase Costs*

One employer found that their most serious workers' compensation claims that increased costs and resulted in significant lost time from work came from members of the new company-sponsored soccer team. The lengthening disabled list ended the team's playing career after one season.

premises. It's easy to see how the painter who falls off a ladder at a worksite will be covered by workers' compensation. The twisted ankle during the sack race at the annual company picnic and the broken hand of the star pitcher on the company softball team will probably be covered under workers' compensation too. Contact the agency that administers workers' compensation in your state for specific definitions.

### Unemployment Insurance

Unemployment insurance (UI) benefits are designed to provide a safety net for employees. Employers pay both federal and state unemployment taxes as a percentage of earnings up to a maximum amount of taxable wages. Employers pay into state funds at a rate determined by their level of claims or experience, and eligible individuals are paid benefits using formulas that include wages and weeks worked during a specified period. An employee terminated during the first week of employment may be eligible for unemployment benefits if he or she has worked the required number of weeks at a previous employer.

Although it is certainly in an employer's interest to take steps to reduce the UI rate, contesting every claim is not the best approach. In the event of layoffs these benefits serve their intended purpose of allowing individuals to remain actively searching for work while collecting a base amount. Employees may also be eligible for partial unemployment if their earnings are cut due to a reduced workweek; this payment could dissuade valuable staff from using the time off

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to find a new job. Disseminating up-to-date information about UI benefits to employees at the time of a layoff or reduction in hours demonstrates concern and clarifies misconceptions. Contact your state department of labor to obtain instructions and directions to facilitate processes and minimize frustrations.

Respond promptly to any information requests concerning UI claims; delays can incur fines and determinations may be based only on information provided by the individual out of work. When an employee is fired you choose whether or not to contest the claim for unemployment benefits. Determination of eligibility is based on the factors supporting the termination decision; UI benefits are delayed or not given to individuals who are fired due to misconduct. The definition of misconduct applied in these cases is much narrower than the standards used by most employers and varies by state. Obtain clarification of these rules from in-house human resources, an external consultant, or specialist in responding to UI claims and the state agency that administers unemployment benefits. In the event of a termination involving a difficult individual, it can be prudent not to contest the unemployment claim in an effort to avoid or minimize additional actions by an angry former employee, or as an offer of good faith to conclude the employment relationship without ill will. Never create a false record by describing different circumstances surrounding a termination; the best response may be none or simply "The employer does not wish to contest this claim at the present time."

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WORTH REPEATING

*Call My Payroll Provider*

A multilocation employer contracted with a service through their payroll processor to respond to all unemployment insurance claims. Independent consultants or those linked to a payroll company can keep up to date with all of the details required for administering UI. The dollars saved in adjusted claims and other reviews more than pay for the cost of the service.

### *Are There State Specific Requirements for Other Benefits?*

Six jurisdictions extend the safety net to include compulsory Short-Term Disability (STD) providing income in the event of non-work-related injury or illness. California, Hawaii, New Jersey, New York, Puerto Rico, and Rhode Island require all employers with at least one employee to participate in an STD plan. The specifics of STD vary by location, but in all cases noncompliance can result in fines and penalties. The benefit is extended to employees regardless of full- or part-time status and is based upon where the individual works. If a company headquartered in Connecticut employs salespeople in Rhode Island and New York, STD must be provided in the two states where the benefit is compulsory, whether they work out of space with the company name on the door or function effectively from a home office.

The benefit amount varies by state and individual earnings but should certainly be communicated as part of a benefit package. California also extends disability, for a specified period, to Paid Family Leave to allow employees to care for a seriously ill child, spouse, parent, or registered domestic partner, or to bond with a new minor child.

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### *Don't I Have to Pay for Regular Sick Days?*

There are no federal requirements to provide paid time off for sick days, vacation, or even holidays. Identification of these benefits days will be an employer decision based on the considerations outlined here. A detailed description of paid time-off benefits is included in Chapter Two.

### *What Do I Need to Know About Federal Law That Regulates Employee Benefits?*

ERISA, the Employee Retirement Income Security Act, is the federal law enacted in 1974 to govern employer-sponsored benefit plans. ERISA does not require employer-provided plans but it does govern regular plans that are established in two categories: Employee Welfare Benefit Plans and Employee Pension Benefit Plans.

Employee Welfare Benefit Plans defined by ERISA include any employer-offered plan that provides benefits for:

- Health insurance
- Group life insurance
- Long-term disability coverage
- Severance pay
- Vacation pay
- Apprentice or other training programs
- Day-care centers
- Scholarship funds
- Prepaid legal services

Benefits covered by ERISA as Employee Pension Benefit Plans include:

- Profit-sharing retirement plans
- Stock bonus plans
- Money purchase plans
- 401(k) plans
- Employee stock ownership plans
- Defined benefit retirement plans

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### *What Are SPDs and 5500s?*

All plans covered under ERISA are governed by a set of reporting and disclosure requirements. Summary Plan Descriptions (SPDs) that describe eligibility, claim procedures, and appeals must be provided to participants within 90 days of employee eligibility and after any significant modification. Other amendment changes require updated SPD distribution every 5 years and every 10 years if there are no plan changes. Your benefits broker or provider can create or furnish these SPDs. They may bundle distribution in regular mailings and the requirement can also be satisfied by providing online access to these documents. The SPD is a summary of a full plan document which, in accordance with ERISA, must be made

available upon request to employees and their beneficiaries. Ask for a full plan document for each covered plan as part of the annual renewal process. Ensure notification compliance by distributing the current SPD as part of annual open enrollment communications.

Whereas SPDs comply with an internal requirement, Form 5500 reports must be filed with the IRS. The Form 5500 is due on the last day of the seventh month after the end of each plan year. For plans that follow a calendar year, the 5500 report is due on the following July 31st. Welfare Benefit Plan 5500s include data about participation and can be completed by a benefits professional or broker and are filed electronically. Completing the 5500 report for retirement plans is an extremely complex undertaking typically performed by external accountants with expertise in this function.

ERISA prohibits employers from discriminating or retaliating against participants or their beneficiaries in exercising their rights under covered plans. The wide reach of these provisions results in enforcement powers within a number of agencies, including the Departments of Labor and Treasury and Pension Benefit Guaranty Corporation.

Approaching employee benefits with a guiding strategy, a view of the competitive landscape, and a basic understanding of legislative requirements will facilitate decision making. The result will be the difference between a collection of initiatives with the potential for conflicts and mounting administrative headaches and a responsive program that enhances the employment package.

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*Get the Cost Up Front to Avoid Sticker Shock*

An employer with a staff of more than 750 researched 401(k) plan providers, asking for details of all plan fees including recommendations for an accountant to complete the filing and the potential cost of the annual 5500 reporting. The employer verified the information with references. Providers who did not respond were taken out of consideration and the employer had a solid basis when budgeting for the benefit.