

November, 2007

Getting Employees On Board With Efforts To Manage Health, Disability & Absenteeism

Dealing with employees coping with their own or a family illness or disability presents a number of challenges for businesses. Each year, the business effort of maintaining affordable and effective health, disability and other benefits grows. Meanwhile, minimizing absenteeism, lost productivity, morale and employment liability risks associated with employees dealing with their own or a family member's illness or disability presents additional operational and legal challenges.

Businesses generally are presented and choose from a veritable smorgasbord of management tools and products promising to improve management effectiveness of these challenges including everything from a host of innovative benefit designs; health questionnaires; onsite clinics and other health services; various disease management strategies; return to work, light duty and other workplace accommodation management strategies; wellness and stress management; leave and performance monitoring and management; financial counseling services; and more.

Appropriately chosen and implemented to fit the particular circumstances, these and other health and disability management tools can play a valuable role in helping employers promote their workforce and benefit management objectives. Unfortunately, however, employers often report disappointment in the effectiveness of these efforts. Unfortunately businesses often report that the results delivered through the use of these and other tools fail to meet their expectations or, even more concerning, make matters worse by triggering unintended or unanticipated costs, disruptions or liabilities of greater concern than those the tools were deployed to manage.

Obviously, the effectiveness of any management effort starts with picking the right tool for the job. This means that when assessing proposed health care and disability management tools, businesses must critically evaluate their behavioral management needs and pick tools that best promote their specific and overall objectives. Picking the right tools requires that businesses understand the behaviors of concern, and how they relate to other relevant performance and behavior. When making these decisions, it is critical that businesses evaluate both the likely effects of the use of the tool upon the specific behavior of concern as well as the potential ripple effects on other tools and behaviors.

Picking the right tool alone rarely produces the expected results, however. As with other efforts to manage conduct, employer efforts to manage employee behaviors impacting benefit utilization and costs and workplace absenteeism, productivity and performance by employees and families coping with illnesses will be more effective when the management effort:

- Is tailored and suitable to address the problem it is intended to manage;
- Targets a behavior that the employee or his family has the power to change;
- The employee or other party whose conduct is targeted for management either possesses or has access to the tools necessary to efficiently achieve the desired behavioral change; and
- The expected or desired change is clearly communicated to employees in terms understandable to the employee or other parties whose behavior it is intended to influence.

Frequently, communication inadequacies undermine the effectiveness of the investments that businesses make in benefits and absentee management tools and efforts. Employees are unlikely to use or value benefit bells and whistles they don't know about or know how to properly use. Consequently, before or when investing in leave and benefit policies or management efforts, businesses should not overlook the importance of investing in communications that will help ensure their investment is positioned to effectively influence the desired behaviors.

Many times, communication weaknesses undermine the effectiveness of health and other benefit management strategies expected to influence how employees and their families access health care or address other illness related behaviors impacting the employer. For instance, one of the biggest struggles for business is how to get employees to read and use the information that businesses already provide at great effort and expense, to value the benefits provided, and to anticipate and cope with needs not addressed by the benefit program.

Businesses mostly rely upon employee handbook and personnel policies, annual enrollment materials, summary plan descriptions, enrollment meetings, and certain vendor provided or government mandated documents to communicate with employees and their families about leave and benefit matters. Unfortunately, enrollment materials and plan communications usually are poorly designed to serve this purpose. These materials usually are not presented or written to maximize their effectiveness in communicating relevant information about employees. Instead, they tend to be written and organized to meet legal mandates and to gather information in terms relevant to program administrators, insurers, and the employer with only limited effort made to tailor these communications to effectively communicate in relevant terms to employees and their families. Simple changes in the organization and content of these materials can reap big benefits in helping employees value and use their benefits and leave more appropriately.

A good place to start often is to improve the content, organization and presentation of the information communicated about health, disability, leave of absence and other illness related programs. Optimally, the annual enrollment process and plan communications should strive to guide employees and their families in developing a basic action plan for how their family will respond when an employee or a family member becomes ill or disabled, taking into account the employer provided benefit programs and their family's situation. For employers preparing for an upcoming annual enrollment and annual renewals, now is a great time to get started. With a little planning now, businesses can make simple changes to their annual enrollment materials and plan communications that can have a big impact on the behavior of employees and their families.

When preparing this year's annual enrollment package, summary plan description and other plan materials, read the information through the eyes of an employee or his spouse. Employees are more likely to read and understand these materials if they are written in organized to help employees appreciate the challenges their family might face and how to use the information provided to prepare for these possibilities and to respond effectively when an illness arises. Read through your materials and ask how effectively your existing materials communicate to employees and their family members the key information necessary to influence the health care and disability behaviors your business wants to manage.

Start by considering how effectively these materials are written and organized:

- To educate employees about the need to anticipate and plan for both expected and unexpected illnesses or injuries within their family;
- To inform employees about the value of the benefit packages provided while educating employees against having unrealistic expectations that these benefit programs completely cover all potential needs and costs;
- To help employees and their families anticipate the financial costs and other practicalities that their family likely will confront when dealing with an ill or aging family member;
- To guide employees to review the offered benefits, make informed enrollment decisions, and decide what additional coverage or other arrangements their family also might need beyond those employer-provided benefits;
- To educate employees how to best use the plan and its benefits when an illness or disability arises; and
- To inform employees and their family about how to find other resources to help them deal with expenses or other issues not addressed by the benefit program.

Make your assessments through the eyes of an average employee or family member. Communications should be simple, direct and clear.

Businesses also regularly complain that employees don't read or understand the information business provides about benefits at enrollment, and promptly lose it or never look at it again. While much of the information in these materials only becomes relevant when an employee or family member suffers an illness or disability, businesses can help prepare employees to use these benefits and materials more effectively by making simple changes in how the leave and benefit materials are communicated at annual enrollment time and other times throughout the year. For instance, many businesses overlook valuable opportunities to claim credit for the investments made in providing benefits and to prepare employees and their families to appropriately use these materials during the annual enrollment process.

Annual enrollment materials and meetings can help promote employee recognition to more appropriately use these benefits if designed and presented in a manner that invites employees and their families to anticipate that their family will experience a need to use these programs and to develop an action plan for responding to an illness using these benefits and other resources. Businesses should present these materials to help employees appreciate the value of what your business provides for them in helping to fashion their plans to cope with an illness or disability, as well as to help them anticipate how they will need to utilize these programs.

In this respect, businesses often can promote their objectives by inviting employees and family members to develop their family's illness contingency plan by asking questions such as:

- Why is this information important and what should I do with it?
- What circumstances might I or a family member need to use these policies and benefits?
- What times of care and expenses do I expect my family might face?
- Given these expectations, what needs do I need to plan for?
- What needs can I look to fulfill through these benefit and personnel policies and what needs do I need to plan separately for?
- What steps do you have to follow to qualify for, apply for and collect benefits?
- What alternatives are available to my family for dealing with issues not addressed by the benefit or leave policies?
- Where will you keep this information so you have it when you need it?
- Who needs to know about your plans and arrangements?
- Have you shared this information and relevant documents with these individuals?

Businesses also should evaluate how effectively their plan communications are written and organized to facilitate the ability of employees and their families to assimilate and use relevant plan information when an illness arises.

The basic governmentally mandated claims and appeals information typically included in summary plan descriptions, employee handbooks and policies and other related materials supplied by employers and their health programs do little to help employees and their family understand how to more effectively access care; to organize, monitor and administer their health care expenses and claims; and to anticipate and cope with uncovered medical bills and expenses. Furthermore, most employees and their families do not have a process for organizing and monitoring their health care expenses.

Employers can help employees improve their ability to manage their health care and related expenses and help reduce plan administration costs and demands upon the business by helping employees and their families by providing some pretty basic education. To encourage plan members to use health plan data and other tools to improve care choices, for example, health plan communications should not only include simple information about the value of exploring care costs and alternatives before making care choices, but also provide tools and information to support employees in these efforts. Consider insisting that the materials provided for employees and families include basic explanations of matters such as the importance of preparing and organizing information before seeing the doctor; asking doctors about care alternatives, side effects, and specific instructions; the value and process for separately researching care alternatives; the availability and use of health care quality data from the health plan and other sources; how to use this information to talk with providers about care alternatives and costs; how to plan for and handle expenses not covered by the plan; and other commonly recurring issues.

Providing some basic tools and education for employees and families about how to organize and manage health care costs and expenses also can produce big benefits for employees while reducing plan administration headaches and expenses for the employer. Most employees and their families need help learning how to establish and administer a process for organizing and administering their benefits information, medical bills and associated financial paperwork. Some simple education and organizing tools not only helps impress upon employee's their role and responsibility in this process, and helps reduce the time invested by the employee and the employer in dealing with claims issues fueled by the lack of organization and understanding of employees and their families of these matters.

Beyond helping employees and their family members to anticipate and prepare to manage their own medical affairs, employers also can help head off problems for their employees and themselves by educating employees and family members about the importance of arranging in advance one or more trusted people to step in and help manage medical affairs if the employee or other family members are unable to handle those matters themselves. In addition to identifying the individuals they expect to step in if a medical emergency arises, employees also should be educated about the value of sharing key health and disability benefit information and as well as copies or the location of important documents with their emergency contacts, family, others likely to need to know in the event of an emergency.

For more information about arranging a Health Care Toolkit™ Workshop for your employees or organizations or to explore other opportunities to redesign your summary plan description, enrollment or other plan and employment related materials and other resources to help educate your workforce to better manage their health and disability affairs, contact Cynthia Stamer at 972.419.7188 or cstamer@gpm-law.com.

Other Information & Resources

If you have questions or concerns about the matters discussed in this publication or other employee benefit, compensation or human resources matters, wish to obtain information about arranging for training or presentations by Ms. Stamer, wish to suggest a topic for a future program or publication, or wish to request other information or materials, please contact: Cynthia Marcotte Stamer, P.C., Member, Glast, Phillips & Murray, P.C., 2200 One Galleria Tower, 13355 Noel Road, LB 48, Dallas, Texas 75240. Telephone (972) 419-7188. E-mail cstamer@gpm-law.com. You also can register to receive future updates and information about upcoming programs, access other publications by Ms. Stamer and other helpful resources or additional information about Ms. Stamer and/or Glast, Phillips & Murray, P.C., at CynthiaStamer.com or by contacting Ms. Stamer directors. We hope that this information is useful to you. If you or someone else you know would like to receive future Alerts or other information about developments, publications or programs, please be sure that we have your current contact information – including your preferred e-mail. Interested persons can register or update their contact information by providing that information to us through registration on our website at www.cynthiastamer.com or via telephone, fax or e-mail.

About Cynthia Marcotte Stamer

Board Certified In Labor and Employment Law by the Texas Board of Legal Specialization, attorney Cynthia Marcotte Stamer has more than 20 years experience helping employers and business leaders, health plan fiduciaries and administrators, insurers and others design, implement, administer and defend health and other employee benefit and compensation, insurance and other human resources practices, policies and strategies. Chair of the American Bar Association (ABA) Health Law Section Managed Care & Insurance Interest Group, and Vice Chair of both the ABA Real Property, Probate & Trust Section Employee Benefits & Compensation Group and the ABA TIPS Worker's Compensation Committee, Ms. Stamer is recognized for her innovative leadership in developing consumer driven health care, absence and performance management, safety and other innovative, legally compliant programs, practices and products for employer, employee benefit, and insurance clients.

Recognized in the International Who's Who of Professionals and bearing the Martindale Hubble AV-Rating, Ms. Stamer is a highly regarded legal advisor and consultant, author and speaker, who regularly conducts management and other training on a wide range of employee benefit, human resources and internal controls, and other related risk management matters. Ms Stamer is the author of 100s of publications on a host of human resources and related issues. Her writings have appeared in a variety of other publications, including works published by the American Bar Association, Aspen Publishers, BNA, the American Health Lawyers Association, and Government Institutes, Inc. and others. For a listing of some of these publications, see cynthiastamer.com. Her insights on human resources risk management matters also have been quoted in The Wall Street Journal, various publications of The Bureau of National Affairs and Aspen Publishing, the Dallas Morning News, Spencer Publications, Health Leaders, Business Insurance, the Dallas and Houston Business Journals and a host of other publications. She also serves in leadership positions in numerous human resources, corporate compliance, and other professional and civic organizations..

IMPORTANT NOTICES REGARDING THIS COMMUNICATION

This publication is provided by Cynthia Marcotte Stamer, P.C. for general informational and educational purposes to clients and other interested persons. Neither its distribution to any party nor any statement or information it contains is intended to or shall be construed as establishing an attorney-client relationship or to constitute legal advice. Readers also are cautioned that the information in this publication may not apply to all situations. Consequently, readers must not rely upon this publication or information it contains as a substitute for competent individualized legal advice about the specific circumstances of the reader. If you have received this publication in error or do not wish to receive these in the future, please notify us of your preferences to the attention of Ms. Stamer via email, fax, regular mail or telephone.

REMINDER ABOUT ELECTRONIC COMMUNICATION SECURITY: E-mail and other electronic communication are not secure unless appropriate encryption methods are used. Therefore, they may present heightened risks of security breaches of the communication. Electronic communications also generally are subject to discovery on the same terms as other communications. Please consider carefully these concerns before communicating by e-mail or other electronic means. If you wish for us to communicate with you by means other than e-mail or wish for us to arrange for encryption of our e-mail communications, please contact us at 972.419.7188.

IMPORTANT NOTICE REGARDING TRANSMISSIONS OF PROTECTED HEALTH INFORMATION: Protected Health Information (PHI) is individually identifiable health information. Any PHI contained in this e-mail is intended only for the intended recipient and is disseminated subject to the understanding that all requirements of HIPAA and other applicable laws for this disclosure have been met. If this communication contains PHI, you are receiving this information subject to the obligation to maintain it in a secure and confidential manner. Re-disclosure without additional consent or as permitted by law

is prohibited. Unauthorized re-disclosure or failure to maintain confidentiality could subject you to penalties as described in state/federal law. If you are not the intended recipient, you are hereby notified that any disclosure, copying or distribution of this information is strictly prohibited. If you have received this message in error, please notify the sender immediately to arrange for return or destruction.

ANTISPAM NOTICE: Pursuant to the CAN-SPAM Act this communication may be considered an advertisement or solicitation. If you would prefer not to receive future marketing and promotional mailings or to provide other directions about the tailoring of messages directed to your attention, please contact us via email to cstamer@gpm-law.com or via postal mail to Cynthia Marcotte Stamer, Member, Glast, Phillips, & Murray, P.C., 2200 One Galleria Tower, 13355 Noel Road, L.B. 48, Dallas, Texas, 75240, Attention: Cynthia Marcotte Stamer, P.C.

CIRCULAR 230 NOTICE: The following disclaimer is included to comply with and in response to U.S. Treasury Department Circular 230 Regulations. ANY STATEMENTS CONTAINED HEREIN ARE NOT INTENDED OR WRITTEN BY THE WRITER TO BE USED, AND NOTHING CONTAINED HEREIN CAN BE USED BY YOU OR ANY OTHER PERSON, FOR THE PURPOSE OF (1) AVOIDING PENALTIES THAT MAY BE IMPOSED UNDER FEDERAL TAX LAW, OR (2) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY TAX-RELATED TRANSACTION OR MATTER ADDRESSED HEREIN