BEST PRACTICES IN
Compensation & Benefits

October 2007 www.blr.com Issue 734

Contents

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The Fight to Keep Benefits, Payroll Data Confidential—Are You Winning?

Hackers … thieves … miscreants of all descriptions. All you have to do is read the paper, or better yet, scan the list of data breaches maintained by the Privacy Rights Clearinghouse (www.privacyrights.org/ar/ChronDataBreaches.htm), and you'll start to notice something: Everyone is vulnerable to those mentioned above who are out to get your private data.

Bill Nolan, a partner and labor and employment attorney at law firm Squire, Sanders & Dempsey, has, in recent years been called on more and more to deal with privacy issues. Most of the time, he says, privacy breaches arise from consumer applications; but some significant employment-related breaches also occur.

Nolan cites a recent Ohio case, where a state-employed intern took home a back-up tape containing employee data, then had it stolen from the front seat of his unlocked car. "It contained the personal information of every employee in the state of Ohio, up to and including the governor," Nolan explains.

Reviewing the Privacy Rights Clearinghouse list, you'll find that improper procedures are often the cause of data breaches, like the one in Ohio. In April 2007, payroll outsourcing firm Ceridian admitted that a former employee accidentally posted sensitive information about employees of one of its payroll processing clients online.

The information, which included names, Social Security numbers, payroll data, and even bank account numbers, was included among photos the employee posted online for his family to view.

The breach was discovered when an employee of the client company Googled his name, and found much more than he expected.

Increase Awareness, Decrease Opportunity

Clearly, a lack of guidelines and improper procedures—your own or those of companies to which you outsource—can result in the loss of confidential data. The Privacy Rights Clearinghouse has suggestions for companies developing their own privacy policies. In summary, their ideas boil down to these three main points:

1. **Be open** with your employees about why you need their personal information. Tell them how you'll use it, especially at the time you're collecting it. Limit the information you take to what is required for the purpose, and do so only with the full knowledge and agreement of the employee. Make sure employees have the opportunity to review any personal data you've collected and to update it when necessary. The data must be accurate, complete, and relevant for the purpose.
2. **Ensure security** of employees' personal data. Limit access to it. If you must disclose personal information to any other person or company, do so only with the consent of the individual.
3. **Make someone accountable** for the data. Assign an individual in the company to oversee privacy policies and procedures. Hold regular privacy audits. Train employees in proper handling of private information.

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What Can HR Do?

Human Resources professionals have the responsibility to maintain the privacy of their employee data, and they have an opportunity to make sure it stays confidential. “Human Resources is well positioned in the company to take a leadership role in this,” Nolan says.

“Step one is for you to educate yourself about the potential for data breaches; then, you need to educate your staff. Once everyone is aware of the ways private data typically leaks out, you can take steps to plug the holes.

“Take an inventory of personal information in your organization: Who has it? Where is it? How do people get it? One thing you’ll see at privacyrights.org is that in a lot of these situations, people had data they didn’t need to have, or data was stored in places it didn’t need to be,” says Nolan. “You’ve really got to get this down to a ‘need to know’ basis. On the list, the laptop is a recurring theme. And a lot of times, the sensitive information didn’t need to be on that laptop.

“So understanding the information, where it is, and who is using it, is step two.” If a data breach does occur in spite of your best efforts, the best thing to do is to think back to the Privacy Rights Clearinghouse’s suggestion at the top of the above list: Be open. Notify affected employees right away. Many states require companies that lose data to notify the affected consumers.

Nolan points out that these laws also apply to employers and their employee data. And even if you don’t live in a state where such notification is the law, he suggests that you do so anyway.

“The wise thing to do, which I believe most companies are doing whether it’s consumer data or employee data, is to give the notice,” he says. “In this day and age, if you didn’t give notice and then it comes out a year later, it’s going to be a public relations disaster.”

When Your Data Are Out of Your Hands

When you outsource tasks to another company, you’ve entrusted data to someone outside your control. Make sure they’ve earned that trust, says Nolan. While your policies and procedures may be bulletproof, perhaps those of the firms you’re using for insurance, benefits administration, or payroll are not.

Nolan says you should take the time to check out the other company’s procedures before you turn over the data.

“When you look at the (Privacy Rights Clearinghouse) list, it’s often a third party that’s involved in the data breach,” he says. “It’s a consultant or an insurer that has the data, and it’s their employee losing the laptop. So it’s important to deal with that when you start doing business with an outside company.

“I think the cleanest way to handle it is that you make sure the outside party assumes responsibility for your data when they have it,” Nolan continues. “They indemnify you as an employer for any damage that results from their mishandling of your data. That puts the burden where it logically belongs.”

Technology, designed to make our lives easier and more efficient, sometimes comes at such a rapid pace that it’s difficult to stay on top of it. Nolan says that’s part of the problem with data security.

“Over and over again, we see examples of technology going so fast that employers struggle to keep up,” says Nolan. “We really want organizations to get their arms around what they have in terms of data, just like they would with physical inventory.

“These days, inventory is all right there, on a computer, so you know what is where and when. That’s the model we ought to be working toward for data privacy. Companies that are able to do that are going to be able to avoid a lot of liability that other companies will struggle with.”

Although we read frequently about stolen identities, Nolan says that the amount of litigation over employee-related data breaches is quite low. “One of the reasons, I think, is that it’s just very hard to take an ID-theft and link it to a particular data breach.

“Oftentimes, if somebody is stealing a laptop out of your car, I’m told, it’s not to steal identities; it’s because the person wants the laptop. They may not even know what is on it. Arguably, there is a bit of hysteria right now. Which isn’t to say that having your identity stolen isn’t a miserable experience.” Just ask the governor of Ohio.

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Issued monthly. Subscription price: $298.00 annually for complete service. Periodicals postage paid at Old Saybrook, CT 06475-9998, Standard Mail enclosed.

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CASE Study

Who:	Textron, Inc.
What:	Consolidated employee healthcare options and shifted to consumer-driven healthcare.
Results:	Productivity increased. Healthcare costs declined significantly. Casual absentee rates and the incidence of disability leave decreased.

Move to Consumer-Driven Healthcare Decreases Costs, Improves Employee Health

As Textron, Inc. grew through acquisitions, it kept adding to the roster of healthcare plans offered to its employees. By 2002, the company was providing 137 different plan options and designs for its 28,000 U.S. employees at its numerous locations, says George Metzger, vice president of Human Resources.

Aside from the administrative burdens of offering so many different options, Textron (www.textron.com) found that its employees had "very different healthcare experiences" because of the variations in the plans and plan designs. Textron, which operates a global network of aircraft, industrial, and finance businesses, decided that the healthcare experiences of each of its U.S. employees "should be the same regardless of geography, business unit, and, quite frankly, income level," Metzger says.

New Plan Ensures Consistency

As part of a larger change management initiative 5 years ago, Textron shifted from a "very decentralized, multiplan design" to a consumer-driven healthcare plan, which currently features either a health reimbursement account (HRA) or a health savings account (HSA), he says. In addition, the company now pays the full cost of preventative screening tests.

All employees contribute toward the cost of health care, but the amounts vary based on their ability to pay and which of three deductibles they choose. "We ask our employees to pay a contribution toward their health care," he says. "It's a nominal contribution ranging from a minimum contribution of $364 per year to a maximum of $3,209 per year."

For example, employees with a $150,000 salary contribute "slightly" more to their healthcare costs than their colleagues making $25,000, although the higher-paid employees can decrease their contributions by selecting a higher deductible, Metzger explains.

When Textron rolled out its new health plan 5 years ago, HSAs didn't exist, so all employees had an HRA. HSAs became an option in 2005. The primary differences between the two are that, with HSAs, employees can make contributions and take the accounts with them if they leave the company, Metzger says. Also, the contributions can be made on a pre-tax basis, and funds within an HSA can grow without being taxed, he adds.

Company Encourages HSAs

This year, Textron started encouraging employees to select an HSA over an HRA for two reasons. First, "it reinforces the focus that the dollars spent on healthcare belong to the employee," he says. "The most effective way of demonstrating that is saying, 'If you no longer work for us, you take those funds with you when you walk out the door.'" Second, HSAs provide employees with the opportunity to contribute to their account and for their savings to grow with interest, he says.

"Textron wants its employees to make informed health-related decisions. So employees have phone and online access to information about health-related research from such respected authorities as the Mayo Clinic and Johns Hopkins University, as well as information about physicians' training, their experience treating certain conditions, the outcomes of that treatment, and complaints lodged against physicians," Metzger says. "We rely on our third-party administrator as a coordinator and procurer of this data."

Textron credits its move to consumer-driven health care with improving employees' health and significantly decreasing healthcare costs. The company reports that more employees have preventative screening tests done, which helps keep healthcare costs down because health problems are detected and addressed early. For example, there has been a 66 percent increase in the number of employees age 50 and above who have colon/rectal scanning.

In addition, worker productivity is up, while casual absentee rates and the incidence of both short-term and long-term disability leave are down.

Make an All-or-Nothing Move To Consumer-Driven Health Care

When introducing consumer-driven health care, some companies continue to offer existing healthcare options, such as HMOs. Metzger says that is a mistake because it sends a "very inconsistent message" to employees who are being encouraged to become more engaged in decisions through consumer-driven health care.

In order to maximize your potential for success, Metzger asserts, "I think you have to believe in healthcare consumerism and your plan design and then commit to do consumer-directed healthcare as a full replacement for all other options you may be offering."

Metzger also offers the following recommendations:

Identify your strategy upfront. "You have to think through what you want to accomplish with the benefits plan very carefully and evaluate the options available that will allow you to satisfy your strategy," Metzger says.

Communicate change effectively. Clearly explain to employees how their new plan works.

Engage in ongoing education. The change should be communicated through multiple means, such as meetings, printed materials, and information presented online. Continue to educate employees about the plan long after the initial rollout.

'Fair Pay' Legislation Passes First Hurdle

The House of Representatives approved legislation that would rectify a recent U.S. Supreme Court ruling and give employees more time to file a complaint alleging pay discrimination under Title VII of the Civil Rights Act of 1964. The Lilly Ledbetter Fair Pay Act (H.R. 2831) was sent to the Senate, which is considering a similar proposal, the Fair Pay Restoration Act (S. 1843).

The House bill is named for a longtime employee who sued Goodyear Tire & Rubber Company for pay discrimination. A jury said Ledbetter had been unlawfully discriminated against on the basis of her sex, but the Supreme Court ruled in a split decision that workers filing a pay-bias complaint under Title VII must do so within 180 days of the date *the decision* on their pay is made and communicated to them—rather than within 180 days of receiving discriminatory pay.

"The Lilly Ledbetter Fair Pay Act would clarify that every paycheck or other compensation resulting, in whole or in part, from an earlier discriminatory pay decision constitutes a violation of the Civil Rights Act," according to the House's Committee on Education and Labor. "As long as workers file their charges within 180 days of a discriminatory paycheck, their charges would be considered timely. This was the law prior to the Supreme Court's May 2007 decision."

The White House opposes the bill, saying in a policy statement that "H.R. 2831 would allow employees to bring a claim of pay or other employment-related discrimination years or even decades after the alleged discrimination occurred. H.R. 2831 constitutes a major change in, and expanded application of, employment discrimination law."

Paid Medical Leave Proposed

The Family Leave Insurance Act of 2007 (S. 1681) would provide workers with up to 8 weeks of paid leave after the birth or adoption of a child; to care for a child, spouse, or parent with a serious illness; or to care for their own serious illness, says Senator Christopher Dodd (D-Connecticut), who introduced the "landmark" bill with Senator Ted Stevens (R-Alaska). Dodd is also author of the Family and Medical Leave Act (FMLA), which gives eligible workers up to 12 weeks of unpaid leave.

Under S. 1681, a fund would be established in which employees, employers, and the federal government share compensation costs for affected workers. Benefits would be tiered based on wages. Program participation would be mandatory for businesses with more than 50 employees, but companies with equivalent or better benefits could self-insure instead. The bill was referred to the Senate's Committee on Finance.

Extended Unpaid Leave Considered for Wounded Soldiers' Caregivers

Senator Dodd (D-Connecticut) also recently introduced the Support for Injured Servicemembers Act of 2007 (S. 1894), which would extend the 12-week unpaid leave provision of the FMLA to 6 months for family members or primary caregivers of wounded military personnel.

Another Senate bill, the Military Family Job Protection Act (S. 1885), would provide up to one full year of job protection for family members caring for a recovering soldier. Both bills were referred to the Committee on Health, Education, Labor, and Pensions.

Senate Mulls Possible Wellness Tax Credit

Employers that offer wellness programs would receive a tax credit, under the Healthy Workforce Act (S. 1753), which was recently proposed by Senators Tom Harkin (D-Iowa) and Gordon Smith (R-Oregon). The bill, which was referred to the Senate's Committee on Finance, would provide a tax credit of up to $200 per employee for the first 200 employees, and up to $100 per employee thereafter, to businesses that offer comprehensive wellness programs that meet certain criteria.

IRS Update

Section 403(b) Plan Rules Finalized

Final regulations recently released by the Treasury Department and the Internal Revenue Service (IRS) incorporate numerous legislative changes to retirement savings arrangements sponsored by public schools and charitable organizations. Such arrangements are known as Section 403(b) plans.

Representing the first comprehensive change to Section 403(b) regulations in more than 4 decades, the final regulations address changes to these arrangements, including changes made under the:

- Employee Retirement Income Security Act of 1974,
- Tax Reform Act of 1986,
- Small Business Job Protection Act of 1996,
- Economic Growth and Tax Relief Reconciliation Act of 2001, *and*
- Pension Protection Act of 2006.

The major effect of the Section 403(b) changes under the latter three laws "has been to diminish the extent to which Section 403(b) arrangements differ from other arrangements that include tax-deferred salary reduction contributions, such as Section 401(k) plans and governmental plans under Section 457(b) of the tax code," the Treasury Department said.

The New Era of Health Care: HR's Opportunity for Bold Leadership

by Bonnie Hathcock, senior vice president and chief human resources officer, Humana

With companies across the country seeking answers to the problem of rising healthcare costs, Human Resources has never been in a better position to add value to the enterprise. When you deliver on a consumerism strategy, you change the equation from annual increases in cost to one that reduces costs for both the employee and your organization.

Moving toward a consumer-focused health benefits strategy is a change initiative—no less challenging than other significant change efforts you have led. Once senior leaders are committed, you will embark on a journey to transform your employees from passive healthcare users to savvy consumers. The payoff will be worth the effort.

Educate on: The Employee Value Equation

In addition to securing commitment, your success will be determined by how effectively you engage employees around the change. The challenge? To equip individuals with the knowledge to make confident healthcare decisions the same way they make other purchasing decisions. Traditional healthcare plans requiring $20 co-payments for doctor visits have insulated employees from the true cost of health care. As they are asked to take greater responsibility for their own health care and the costs associated with it, employees will require information. They will also want to know how they stand to benefit from the change.

One way to engage employees is to paint the "big picture" behind your organization's move toward a consumer-focused plan. Help employees understand the trend in rising healthcare costs and its challenges to the organization. In addition, be ready to answer the question of "what's in it for me?" By becoming informed about other companies' success stories with consumer-engaged health plans, you can better educate employees on how those plans will decrease their own costs. When everyone has a stake in driving down healthcare costs, everyone wins.

Educate on: How to Be Better Healthcare Consumers

One way to enable individuals to make smarter choices is to increase awareness of the factors that contribute to rising healthcare costs and to outline small changes they can make. Some of these factors include:

- **Inappropriate or unnecessary care.** Encourage visits to a physician vs. the emergency room, where appropriate. According to the American Institute for Preventive Medicine, 55 percent of emergency room visits are unnecessary, costing the nation $14.7 billion annually.
- **Brand names vs. generics.** The cost involved in researching, developing and marketing a new drug lead to more expensive brand name drugs. In fact, they're typically 40 percent to 60 percent more expensive than their generic versions. Employees can avoid those higher costs by discussing with their providers if generics are available instead of name-brand drugs, where possible.
- **Network providers**. Employees usually understand the difference between in- and out-of-network providers, but they may not necessarily understand the financial implications of choosing one over the other. Educate them about how much more it will cost to visit an out-of-network provider, not only for them, but also for the company.

Educate on: The Cost Versus Quality of Health Care

With the consumer-directed movement reaching the mainstream, more information is becoming available to consumers about costs, quality, and success rates. With greater access, individuals who previously paid for health care with no comparative cost information will now be able to make purchasing decisions in the same way they do with other products and services. In addition to more formal quality information from government organizations, many health plans offer public access to the following information on their websites:

- Listing of physicians recognized by the National Committee of Quality Assurance (NCQA)
- Information about a given physician's effectiveness in treating certain conditions
- Outcomes, processes, and safety practices for hospitals
- Estimated costs for specific treatments at hospitals—including doctor's fees, facility fees, etc.
- Cost, typical dosages, generic alternatives, potential side effects, and drug interactions for prescription drugs

Some organizations go further by converting complex healthcare cost information into a more user-friendly format. At Humana, we have created a tool called SmartSummary, a personalized healthcare statement that showcases both benefits and costs (more information follows).

Educate on: The Finance of Health Care

As the health benefits and financial sectors continue to intertwine—such as with HSAs—you may be asked more questions regarding the finances of health care. Employees should understand the importance of accounting for healthcare expenses when developing their annual budgets and when choosing their benefits. Why? According to an ABC News/Kaiser Family Foundation/*USA Today* survey conducted in October 2006, one in four Americans say their family has had a problem paying for medical care during the past year, up

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From the Courthouse

Appeals Court: Cashed-Out Participants Can Still Sue for Fiduciary Violation

A federal appeals court has ruled that retirees are allowed to sue the fiduciaries of a defined contribution plan for the money they lost because of fiduciary violations in managing the plan's assets. Such a suit is allowed, said the court, because it is a suit for benefits and not for damages (*Harzewske v. Guidant Corporation*, No. 063752 (CA-9, 6/5/2007)).

Facts. Guidant Corporation, a manufacturer of medical devices, including implantable defibrillators, sponsored a defined contribution plan with contributions to employees' accounts coming from a 401(k) component and from an employee stock ownership plan (ESOP). The 401(k) was funded by employee contributions and matching employer contributions, while the ESOP was funded by Guidant issuing common stock to the plan, usually amounting to 5 percent of an employee's monthly salary.

The named plaintiffs in this case are former employees of Guidant Corporation. These former employees claimed that because of fraud committed by Guidant's management the price of company stock was inflated. The fraud allegedly consisted of the concealment of information concerning defects in the company's implantable defibrillators, which accounted for nearly half its revenues. The suit alleges that the plan fiduciaries acted imprudently in failing to dispose of Guidant stock held by the plan before the fraud was discovered and the value of the stock dropped. The district dismissed the lawsuit on the grounds that the named plaintiffs were not entitled to bring the suit because they had retired from Guidant and cashed out their accounts before the suit was filed. The retired employees appealed.

Ruling. Because the district court did not examine the merits of the complaint, the issue on appeal does not involve whether the fiduciaries violated their responsibilities and duties, but only whether the retired employees were authorized to sue the fiduciaries. The appeals court noted that ERISA Sec. 409 allows suits to restore the plan to the situation it would have been in had the alleged fiduciary breach not occurred. Such suits may be brought by plan participants, and retired employees are participants if they may become eligible for benefits under the plan. Thus, retired participants' suits for fiduciary breaches would be permitted if the outcome of the suit could entitle the retiree to benefits.

To illustrate this point, the court offered the example of a defined benefit plan in which a retiree discovers that his or her pension amount has been miscalculated at a lower rate than provided by the plan. Such a retiree could sue because winning the suit would entitle him or her to an additional benefit by increasing the payment rate.

This concept, however, is more obscure in the case of a defined contribution plan because such plans do not specify a benefit amount or a benefit calculation formula. The method for calculating contributions is specified, but the benefits themselves are not. Benefits are just what is in an individual's account when it is cashed out. The distinction between benefits, which may be sued for, and damages, which may not be sued for, does not mean that monetary relief is prohibited. Plaintiffs must show that they are entitled by the plan documents to any amount of money that they are claiming above what they received when they retired.

The court used another example to illustrate this point. Suppose it was discovered post-retirement that a plan fiduciary had stolen half of the money in an ex-employee's account. A suit would result in a judgment for that amount. The court noted that there is no difference if, instead of stealing the money from the account, a fiduciary by imprudent management caused the account to be half as valuable as it would have been under prudent management. The benefit in a defined-contribution pension plan

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The LAW

Employee Retirement Income Security Act (ERISA)

ERISA Sec. 502(a)(2) provides that a plan participant or beneficiary may sue for appropriate relief under ERISA Sec. 409. Sec. 409 provides a plan fiduciary who breaches any of the responsibilities, obligations, or duties imposed on fiduciaries by ERISA is personally liable to make good to such plan any losses to the plan resulting from each such breach. ERISA Sec. 3(7) defines "participant" to include former employees who have cashed out their plan benefits if they may become eligible to receive a benefit of any type from the plan.

ERISA Sec. 3(34) defines the term "defined contribution plan" or "individual account plan" to mean a pension plan that provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, as well as any income, expenses, gains and losses, and any forfeitures of accounts of other participants that may be allocated to such participant's account. The term "defined benefit plan" is defined in ERISA Sec. 3(35) as a pension plan other than an individual account plan.

SRIs—Educate, then Implement

Companies planning to add a socially responsible investment (SRI) option to their 401(k) plan need information. For example, should an SRI option be evaluated differently from any other investment?

The Social Investment Forum and Mercer have created a resource guide, available at www.socialinvest.org/areas/research/other/ContributionPlansandSRIinUS.pdf, that will help answer such questions.

The guide points out that plan sponsors typically use the same criteria to evaluate SRI funds and non-SRI funds, considering past performance and volatility, and often use non-SRI indexes to evaluate the funds.

The Social Investment Forum and Mercer's survey results, also available at the Web address, say that healthcare and government organizations are so far the employers most inclined to offer an SRI option. The survey also found that misperceptions continue to exist among plan sponsors about the competitive track record of SRI funds and fiduciary issues surrounding them.

According to the Forum, this represents an opportunity to educate plan sponsors and the public. Consultants, advisers, and fund companies need to play a vital role by providing this education, they say.

ABOUT THIS NEWSLETTER

This newsletter is devoted to sharing compensation and benefits ideas that have worked for HR professionals striving to make a strategic difference in their companies. If you have a story you'd like to share, send us a fax at 860-510-7224.

If you have a question about one of the newsletter stories or want more information, call 800-727-5257, ext. 2194, or e-mail equayle@blr.com.

Benefits Corner

Employees Invest in Their Own Future—and That of Others—Through SRIs

By 2010, 60% of defined contribution plans will offer a socially responsible investment (SRI) option, according to a study released in early June 2007. *Defined Contribution Plans and Socially Responsible Investing in the United States*, conducted by Mercer Investment Consulting in conjunction with the Social Investment Forum (www.socialinvest.org), found that 19% of defined contribution plans (DCPs) currently offer an SRI option, and another 41% expect to within the next 3 years.

Lisa Woll, Social Investment Forum CEO, predicts steadily increasing interest in SRI options in the near future, and the report found that 81% of plan administrators, 72% of consultants, and 47% of plan sponsors agree, predicting an increasing or steady demand for the SRI option over the next 5 years.

"Socially responsible retirement options are becoming a fixture of corporate America's retirement plans," Woll says. "This is good news for investors and their employers. More and more Americans are interested in SRI funds because they offer a way to save for retirement, improve corporate responsibility, and achieve significant environmental and social goals. Companies that offer them are providing a real benefit to their employees."

Intel, a $39 billion maker of computer chips, is one company that offers employees an SRI fund option. According to Dave Stangis, director of corporate responsibility at Intel, SRI options are compatible with business goals.

"As a company continually striving to lead in socially responsible business practices, it just made good business sense to have an option that allowed our employees to put their money where their hearts are," Stangis said. "Our employees are diverse and have strong views on why it's important for the company they work for to be socially responsible. Part of meeting that expectation, now and in the future, means having 401(k) investment choices that are broad and include SRI options."

Companies with a business or corporate focus on environmental or social issues may be more likely to add an SRI option to their existing options. However, Mercer IC believes that companies across all sectors will soon join the movement. "As institutional investors continue to consider environmental, social, and governance issues within their investments and as these issues retain their prominence in the news, Mercer IC also believes that overall demand for socially responsible investment options by defined contribution plan participants will grow," the report says.

"Mercer has been helping a growing number of DCP clients provide an SRI option for their participants," says consultant Craig Metrick. "We put SRI funds through the same rigorous selection process that is applied to traditional investment options. As fiduciaries, plan sponsors need to consider the merits of SRI overall, as well as the characteristics of the various investment options."

CASE Study Study Study Study

The Container Store Gets Pay Systems Organized

Who:	The Container Store
What:	Implemented several facets of electronic human resource management systems, including employee self-service, manager self-service, and paperless pay.
Result:	Increased efficiency in the payroll department, which remains at four employees, even as the company grew by 50 percent.

If you happen to visit the payroll office of retailer The Container Store (www.containerstore.com), don't be alarmed if you happen to hear the 'F' word. In fact, if you listen awhile, you might hear all three of them. That's right, three. "These are what we in the Payroll Department call our three little 'F' words: forms, faxing, and filing," says Payroll Director Claudine Tudgay. We try to avoid them, she laughs.

But if you eliminate those three little 'F' words, how can you conduct the business of payroll? Electronically, of course! Yes, paperless systems for benefits enrollment have been around for some time; you've even read about them right here.

Paperless benefits enrollment systems keep employees and Human Resources more efficient by eliminating the things that slow them down, but Tudgay says paperless systems can benefit your Payroll Department, too.

She should know: This 3,200-employee company requires only four regular Payroll Department staff. While part of the reason is their hiring practices ("We're very careful about who we hire," she says), moving to a paperless system in the past 5 years has allowed the company to grow unfettered by those dreaded 'F' words.

"We run pretty 'lean and mean' here in the Payroll Department," Tudgay reports. "When we implemented our payroll system and software back in 2002, right away we rolled out the employee self-service module to it. That was huge, because we were able to put a lot of things into the employees' hands. Now it's like the Payroll Department is open 24 hours a day, 7 days a week. Employees can focus on their employee information at home, if they want to, because we do benefit enrollment online."

Soon after the company implemented employee self-service, they also decided to eliminate paychecks. "We did that almost 2 years ago," Tudgay says. "Employees have access to their pay information at any time. They can help themselves, instead of waiting to come through (payroll) for information. Of course, we still provide that service to employees who want it, but the system puts a lot of information at the employees' fingertips, which is a great convenience for everybody."

Payroll Efficiencies Realized at Store-Level

Obviously, there are real benefits to online enrollment and paperless payroll, in terms of time and cost, for Human Resources and for individual employees. But Ultimate Software's manager self-service system, a module to the software already used by The Container Store, is also responsible for substantial payroll cost savings.

How? "In the past, store managers had employee files in their stores," Tudgay explains. "If they wanted to plan out employee salary reviews for the year, they would have to flip through every file to see when the reviews were coming up. Now, through the payroll website, they can access their team information, pull up their employees, sort them by next review date, and plan out their calendars.

"They can set the reviews with the employees in advance so everybody knows what's coming up and all the approvals are done by the review date. The managers go online to enter salary data changes and job changes; all of that is electronic now. So the three 'F' words go away for the store manager, because he or she can go online and take care of these things."

Anticipate Change

The Container Store has created a culture where employees look toward the future with the needs of the company in mind, Tudgay says, which helped them implement these dramatic changes. But not every company has employees who are enthusiastic about leaving the security of their paper systems.

The Container Store recognized that big changes can mean anxiety. And moving to electronic systems requires employees who have computer access and proficiency. "In our payroll system we began to see more and more employees with e-mail addresses," Tudgay explains. "When you start getting information like that, you know they have computer access. And much of what we do everyday, in the stores and in the distribution center, requires computer use. There are several computers in every store that employees can access. The distribution center has a separate room with several PCs in it, so those employees can access their information. If we were not able to do that, then we wouldn't have made these changes. But because we were able to offer everybody access to the website, it made it such a success for us."

Employees accepted the changes with no substantial problems. "As soon as we opened it up to let employees make address changes, emergency contact updates, things like that, they began using it. At first they could do these things on paper or online. Now it's all online, which has really helped eliminate those three little 'F' words.

"Before, employees would have to print a form, keep a copy and put it in the store file, fax it to us, and we would have to update the payroll system by hand, then take the copy and put it in their file here. Now that it's online, the employee enters the change, we approve it, and we're done. What an enormous amount of time it saves everyone."

Growth in Company, Not in Payroll Department

In 2002, when The Container Store implemented its Ultimate Software® systems (www.ultimatesoftware.com), it employed 2,000 people. "Since then we have not had to add anybody to the Payroll Department," says Tudgay, even though the company now employs about 3,200 people. "We're supposed to double in size in the next 5 years, and all of these changes, like eliminating paychecks and employee self-service, are helping us to grow. We're trying to gain all these efficiencies, and we're able to do that with this software."

The cost savings in Human Resources is also considerable, but Tudgay also believes the cost savings associated with changes made at the store level through the manager self-service program to be substantial. "Considering the managers' time, it could be hundreds of thousands of dollars a year we're saving. It's pretty significant. We're also saving our IT Department's time, because we don't have to get them to help us with upgrades and quarterly tax releases, things like that. They can stay focused on the customer, which is what we should all be focusing on."

Tudgay's advice for a company that is fortunate enough to be able to add electronic solutions like they have? Make sure you go all the way with it, she says. "Many times when companies get new software, they implement it but they don't keep moving forward with all the new pieces of it, keeping up efficiencies to stay on top of growth.

"A lot of it has to do with the company's culture. We're fortunate because our culture allows us to fully utilize the software. Sometimes people get so bogged down that they're not able to move forward with everything the software has to offer. There is time and effort involved in rolling these things out. But when you look at it, it makes perfect sense to use it; it's a huge cost savings."

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is whatever is "in the retirement account when the employee retires or whatever would have been there had the plan honored the employee's entitlement, which includes an entitlement to prudent management."

Impermissible damages. The court noted several kinds of damages that participants may not sue a fiduciary for, including: punitve damages; the penalty for failing to provide plan documents; damages for failing to give advice on how to avoid taxes, unless such advice was promised in plan documents; and damages for emotional distress caused by a plan's failure to honor its obligations.

Q&A

Q. Why is the Normal Retirement Age in defined benefit plans, like ours, usually age 65? Can we change our Normal Retirement Age?

A. A defined benefit plan's Normal Retirement Age (NRA) has been under discussion for many years. While the latter of age 65 or the fifth anniversary of plan participation is the generally accepted NRA, in 1971 the Internal Revenue Service (IRS) said the NRA could be lower than 65 if a lower age is customary in a particular company or industry. Then, in 1978, the particular company or industry requirement was dropped, allowing all covered plans to specify a lower NRA.

In 2004, the IRS issued proposed regulations addressing phased retirement. Included in the proposed regulations was a new definition for the NRA; it could not be used "as a subterfuge to avoid qualification requirements."

This part of the 2004 proposal was finalized in May 2007. Now, as before, a qualified plan must provide benefits after retirement or the attainment of the NRA.

The NRA is defined as an "age that is not earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed." It is unclear why the industry standard language, dropped in 1978, has been reintroduced.

Payroll May Not Be As Accurate as Employers Believe

In the 2007 QuickBooks Payroll Survey, two-thirds of employers said their payroll is always accurate. Not so fast, say their employees: Nearly half find errors on their paychecks.

Employees who responded to the survey seem to have a full understanding about their paychecks, with 68% saying that they understand each deduction. Eighty-two percent reported that they also understand that the payroll taxes they pay now affect their Social Security and unemployment benefits later.

QuickBooks Payroll has these recommendations for employers endeavoring to maintain accuracy on their paychecks:

- Bear in mind that outsourced payroll generates more errors than payroll done in-house.
- Using payroll software results in a more accurate payroll than any other method, even when companies have an accountant process it.

Employees Confused By Healthcare Coverage, Language

You realize that it's important for employees to understand their health insurance coverage, so you try to communicate it in simple terms, accessible to the average person. Even so, says a new survey by Watson Wyatt, many U.S. workers still don't understand the message you're sending.

Nearly 2,100 workers were asked what their health plans cover and whether they are comfortable explaining some common healthcare terms. Forty-three percent of those asked don't understand their coverage, according to the survey. Less than half can explain common healthcare terms such as "co-pay" and "deductible." Even fewer—less than half—can explain more complex terms like "coinsurance" or explain what a health savings account is.

"It's hard for employers to ask employees to take more responsibility for their health care when they are not speaking the same language," said Kathryn Yates, global director of communication consulting at Watson Wyatt. "Helping employees improve their healthcare literacy and learn the terminology can make or break a company's healthcare efforts overall."

Don't stop trying to explain, though. While only slightly more than half (52%) said they read all materials they receive during the enrollment process, the survey found that most employees like to receive information about their healthcare benefits in print—perhaps because they can refer back to the materials when a question arises.

When asked to rate several common methods of delivery of the information, 7 in 10 said they prefer printed communications mailed to their home or provided to them at work. Sixty-four percent prefer receiving the information online, and 46% prefer face-to-face meetings. Meanwhile, 3% of the employees don't read any of the materials provided by their employers, leaving 45% who read enough of the communications to be able to enroll or make needed changes.

"It's essential to communicate with employees in ways that meet their needs and preferences," Yates said. "By using a mix of channels and formats, employers can effectively increase understanding and empower employees to become smarter healthcare consumers."

Increase Co-Pays, Decrease Prescription Drug Compliance

The Integrated Benefits Institutes (IBI) says that it has, for the first time, demonstrated a link between increasing deductibles on prescription drugs and decreasing patient compliance with taking and filling the prescriptions.

Increasing deductibles, one method of dealing with rising healthcare costs, may not be as successful at cost containment as originally hoped, says the IBI. While it does shift some costs from employer to employees, it had an unexpected downside. The study focused on employees who have rheumatoid arthritis (RA), tracking their disability and absence-related lost productivity. It found an increase when employers raised employee out-of-pocket expenses for prescription drugs.

There are clear evidence-based medical guidelines for prescription drugs for RA patients, and a strong connection between RA and work disability, according to the IBI. Workers with RA often have medical costs three times higher than a similar population without RA, two times the hospitalization rate and ten times the work-disability rate. The research examined whether patients fill and maintain their prescriptions of two types of RA-treating drugs.

"As employers understand that providing effective, available health care is an investment in human capital that will pay off in real dollars by decreasing overall health-related costs, they may want to rethink their approach to measuring and investing in employee health and productivity," said Jack Mahoney, MD, medical director at Pitney Bowes. "This is not only good for employers, but employees can benefit from less shifted costs."

Added Dr. Thomas Parry, president of IBI, "It is unfortunate that employees appear to make medical decisions based on price and cost shifting, rather than evidence-based medicine. Unfortunately, increasing co-pays for workers can often make a bad situation worse."

Welcome Back: Safe and Effective Return-to-Work Practices

As the Boomer workforce ages, disabilities serious enough to keep employees out of work are climbing. Because more Baby Boomers are expecting to work past age 65 or 70, the situation won't go away, and HR should address it proactively by setting up safe and effective return-to-work (RTW) programs. That was the message of Michael Lotito and Francis Alvarez of law firm Jackson-Lewis, who, in a recent webcast sponsored by the Society for Human Resource Management, outlined some of the best practices to get employees back to work safely and legally.

"Everyone loses when employees are out of work," said Alvarez. There's increased pressure on co-workers to work harder or longer, and therefore, increased risk of co-worker burnout. Employers may have to spend money to replace lost labor and will lose productivity if labor can't be replaced. The longer the leave, the higher the healthcare costs, and the more likely that employment litigation will develop.

Wellness initiatives are critical for preventing legal issues in the first place. Voluntary health risk assessments and education are a standard part of a wellness initiative, as well as employee incentives to adopt more healthy behaviors. The bottom line: RTW is good business, and employers can't afford not to deal with it. Yet most employers don't have effective programs.

Here's a profile of an effective RTW program. "It's all about taking control," said Lotito. Employers should be the primary source of information, employees should take control of their own destiny by cooperating in the process, and companies should make sure that doctors are responsive to their need for information.

1. **Communicate your RTW commitment.** Tell employees how strongly you feel about returning them to work and why. Explain the consequences of their being out of work, and avoid the perception that an individual employee is being singled out. Make sure they know that your company has a coherent RTW program and explain the program in your orientation materials and your handbook. Prepare employees for that first call about coming back to work. These are proactive steps that you should take before anyone goes on leave.
2. **Communicate with employee and/or family ASAP.** When someone goes out on leave, explain the financial benefits that are available to them during that time, the process of applying for income benefits, any opportunities for transitional work, and employees' obligation to cooperate with providing medical information that will help you identify their job-related limitations. Don't make the employee cry for help from another person, such as a plaintiffs' or workers' compensation attorney. Make sure that the company is the main source of information.
3. **Appoint an RTW coordinator.** This person should be able to learn immediately about all absences caused by work-related injury, and all absences caused by non-work-related injury or illness that extend for more than 1 week. This should be someone with influence in the organization because of the need to call on others to assist in the process.
4. **Develop an RTW committee.** Their responsibilities should include developing written plans to return employees to work ASAP, identifying concrete steps for communicating with employees and doctors, and devising medical examination and certification forms as well as template letters to doctors and employees.
5. **Clarify your light duty/ transitional work program.** When you eliminate or modify job functions, match the employee's functional abilities with available work, identify the work to be completed, and implement technology to match employee abilities with the work available. At the same time, make sure you clarify that this adjustment is temporary, so that employees don't view the modified job as a permanent entitlement. Maintain your discretion to modify or end a transitional assignment.
6. **Increase employee accountability.** Make sure employees know they have the responsibility to submit medical information from doctors. If you have an employer-sponsored disability plan, condition receipt of wage replacement benefits on their cooperation with the RTW process.
7. **Refine medical examination processes.** Educate employees' doctors on essential job functions: Send them job descriptions, asking them what employees can do, as opposed to what they cannot. If appropriate, ask them for the risk of harm if the employee returns to work. Consider the nature, severity, and imminence of the risk, and then devise steps to reduce it.

Formula for Success

The formula for success in RTW programs, the speakers said, is TC²:

- Take care of your employees *and*
- Take control of your risks.

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7 percentage points over the past 9 years.

Tools are available that can help consumers budget for their health-related expenses. The Family Health Budget (www.familyhealthbudget.com), an easy-to-use personal finance planning tool, provides an estimate for annual healthcare costs, as well as recommendations on how much should be saved for future expenses. Talking to employees about budgeting and how it affects their choices will benefit your employees and your company.

Why It Matters

Healthcare decisions should be just like other purchasing decisions, where easily accessible information helps individuals make informed choices that improve quality and drive down prices. Until employees are educated on the true cost of health care and become active health-care consumers, companies' bottom lines will continue to be hit by premium increases. The path to victory is paved by educating your leaders and employees on a win-win vision of consumerism.

Bonnie Hathcock is senior vice president and chief human resources officer at Humana. Humana (www.humana.com) offers SmartSummary, a tool that provides information on a specific member's health-related activities that outlines coverage limits, current amounts left in deductibles, and an overview of claims, including prescriptions, tests, FSA activity, and personal health history.

By the numbers...

	Latest Period	Current	Prior Report	A Year Ago	12-Month % Change
CPI-U	July/07	208.3	208.4	203.5	2.4%
CPI-W	July/07	203.7	203.9	199.2	2.3%
ECI EMPLOYMENT COST INDEX					
Total Compensation	2Q/07	104.9	104.0	101.7	3.1%
Wages and Salaries—Metro	2Q/07	105.1	104.3	101.7	3.3%
Wages and Salaries—Nonmetro	2Q/07	105.2	104.4	101.6	3.5%
Benefits	2Q/07	104.3	103.2	101.7	2.6%
Average Weekly Gross Wages*	July/07	$589.81	$589.52	$569.18	3.6%
Average Hourly Wages					
All*	July/07	$17.45	$17.39	$16.79	3.9%
Construction	July/07	$20.99	$20.89	$20.12	4.3%
Manufacturing	July/07	$17.22	$17.23	$16.70	3.1%
Trade/Transp./Utilities	July/07	$15.87	$15.75	$15.53	2.2%
Wholesale Trade	July/07	$19.64	$19.39	$19.07	3.0%
Retail	July/07	$12.83	$12.78	$12.68	1.2%
Financial Activities	July/07	$19.67	$19.54	$18.81	4.6%
Other Services	July/07	$15.17	$15.12	$14.66	3.5%
Unemployment Rate*	July/07	4.6	4.5	4.8	-0.2

*seasonally adjusted
(**Source:** Bureau of Labor Statistics, Washington, D.C.)
All figures are national.

CPI-U: Consumer Price Index for all urban consumers; the newer index representative of the buying habits of about 87% of the total U.S. population. (1982–84=100)

CPI-W: Consumer Price Index for urban wage earners and clerical workers; the older index covering only about 32% of the U.S. urban population.

ECI: Measures change in compensation per hour worked, including wages, salaries, and employer costs of benefits. (6/89=100)

Average Weekly Gross Wages and Average Hourly Wages: Data relate to production workers in manufacturing and mining; construction workers; nonsupervisory workers in transportation, public utilities, and wholesale/retail trade; also finance, insurance, real estate, and other services. Accounts for approximately 80% of the total employees on private, nonfarm payrolls.