



Actuaries and Employee Benefit Consultants

The Swerdlin Quarterly

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Supreme Court Upholds Health Care Reform

In this article we take stock after the recent Supreme Court decisions which largely upheld the Patient Protection and Affordable Care Act ("PPACA," a.k.a. "Health Care Reform," "HCR" or "ObamaCare"). While most changes are still a year or so away, health plans still have compliance issues to be addressed now.

The following items need immediate attention:

1. Summary of Benefits and Coverage (SBC). The SBC is a new requirement of PPACA and is intended to provide participants with a uniform "apples-to-apples" description of benefits and coverage. SBCs are required for each option available under an employer's group health plan. Stand-alone "excepted" benefits such as dental, vision, retiree-only benefits, and most health FSA

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Dorn's Corner

This quarter I would like to ascend into a realm beyond science. As a Primordial Sound

Mantra meditation teacher, I teach the 7 levels of consciousness as described by Deepak Chopra, based on ancient Vedic teachings. Many other spiritual disciplines outline similar states of consciousness. The Vedic view lists the seven levels of consciousness as:

1. Deep sleep,
2. Dreaming sleep,
3. Waking state,
4. Glimpse of the soul or the transcendental state,
5. Cosmic consciousness,
6. Divine consciousness,
7. Unified consciousness.

In our deep sleep state, we have little consciousness but we are conscious. For example, we are aware enough to hear a loud sound.

In our dreaming state, we see ourselves, other people, and other things. In this state, all of the activities are in our head, but we experience separation between us and others. Here's the interesting part: in this state, the dream is our reality. As a matter of fact, in every state of consciousness we experience a different reality, and our physical bodies are different in each stage of consciousness. Our brain wave frequencies change as we expand our awareness. This has been scientifically documented.

(continued on the back cover)

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Service Spotlight: Defined Benefit Pension Plan Funding Stabilization Finally Here!

The Moving Ahead for Progress in the 21st Century Act (MAP-21) became law on July 6, 2012. The provisions in MAP-21 on pension plan interest rates provide much needed relief on pension plan funding and liabilities. However, the good news is offset by provisions in the new law for higher termination insurance premiums payable to the Pension Benefit Guaranty Corporation (PBGC) in the future.

Summary of Pension Provisions of MAP-21

MAP-21 is primarily a transportation bill which includes pension plan provisions that:

- Reduce the adverse impact of historically low interest rates on the three “segment rates” (corporate-bond interest rates) used by many pension plans to calculate funding liabilities. The primary change is to smooth segment rate changes by calculating each rate based on the average of that segment rate over 25 years — a much longer period than the two-year period currently used to determine segment rates. This results in lower plan liabilities and contribution requirements.
- The rates used to value plans in 2012 are 2.06%, 5.25% and 6.32% for benefits paid, respectively, within the first five years, the next fifteen, and thereafter.
- Impose a minimum floor and maximum cap on the percentage of the 25-year average segment rate that can be used. The floor-and-cap corridor expands in future years.
- Create additional disclosure requirements to participants about the impact of the new rates.
- Provide for additional opportunities to transfer excess assets to other retiree benefits.
- Increase PBGC premiums, starting in 2013.

Impact of 25-Year Averages for Segment Rates

Because the floor will drop in 5 percent increments annually beginning in 2013, falling to 70 percent in 2016, the minimum permissible rate will be less in future years. Nevertheless, the use of a 25-year average will continue to be of assistance as long as the current low interest rate environment continues.

Plan Sponsors Face Choices

There are several choices that employers will need to make under the new law. Some decisions which may be influenced by future IRS guidance include:

- Whether to use the new rates for 2012. Plans must use the new rates, unless the plan sponsor elects otherwise. The new rates are mandatory in 2013.
- Whether to begin using the segment rates if the plan previously used the “yield curve” rate for funding. MAP-21 does not change the interest rate for plans that use the yield curve rate instead of the segment rates. A plan can change to the segment-rate method without IRS approval under MAP-21.

- Whether to use the new rates for calculating benefit restrictions under Section 436 of the Internal Revenue Code for 2012, if applicable. This use can be delayed until 2013.

The required annual funding notice to plan participants must include a comparison of old law and new law funding information, along with other disclosures. The Department of Labor is to update its model annual funding notice to include this information, but the release date for this revision is unknown.

Excess Asset Transfers

Under existing law, a plan with assets more than 125 percent of its funding target and normal cost currently can use the excess to pay for retiree medical benefits. The current provisions are set to expire in 2013 and MAP-21 extends this provision for another eight years to the end of 2021. The 125-percent threshold will continue to be determined under pre-MAP-21 requirements.

In addition, MAP-21 expands the potential use of these excess assets to fund retiree group term life insurance. The life insurance cannot exceed \$50,000 per retiree.

Higher PBGC Premiums

Under MAP-21, the per-participant PBGC premium for single employer plans will increase from \$35 to \$42 in 2013 and \$49 in 2014. The \$49 premium will be inflation adjusted after 2014. Also, the minimum variable-rate premium per \$1,000 of unfunded vested benefits will increase to \$13 in 2013 and \$18 in 2014, with future inflation indexing. The maximum variable-rate premium is capped at \$400 per participant (also inflation-adjusted after 2013).

The per-participant premium for multi-employer plans will increase \$3, to \$12 in 2013 and be indexed for future years.

Further information will be forthcoming. If you have questions in the interim, please contact your Swerdlin representative. ■

What is Revenue Sharing?

All mutual fund investments offered to 401(k) participants have costs associated with them, referred to in the industry as the expense ratio. The share price posted for funds is shown net of these expenses. The expense ratio ultimately reduces participants' investment returns. A growing emphasis is being placed on the importance of monitoring these embedded fees for reasonableness.

Mutual funds or other investment providers pay third parties for performing services the mutual fund might otherwise be required to perform. Mutual funds with revenue sharing arrangements include the cost of services provided by the third parties in their fund charges. Two common arrangements are 12b-1 fees and Sub-Transfer Agent fees.

12b-1 Fees

12b-1 fees are distribution expenses paid by mutual funds from the fund assets. They generally include commissions to brokers, fees for administrative services, advertising, and other marketing expenses. Most mutual funds have share classes with varying levels of 12b-1 fees, including classes with no fees. About 70% of mutual funds have at least one share class with a 12b-1 fee.

Fund companies may charge investors a 12b-1 fee that ranges from about 0.05% to as much as 0.25% or more of the investment. The proceeds are used to make payments to the brokerage firm for their

services. In some cases, 401(k) plans can receive the 12b-1 fees to offset the plan's administrative costs.

Sub-Transfer Agent Fees

Mutual funds pay sub-transfer agent fees (Sub-TA) for participant-level recordkeeping services. Plan sponsors should know if their recordkeeper offsets plan administrative costs by the Sub-TA fees they receive.

Investment Management Fees

Investment management fees are usually deducted directly from the investment return as part of the annual expense ratio and vary from fund to fund. They have a direct relationship to the net return and should be benchmarked against other funds with similar objectives.

The expense ratio is one factor to consider when selecting and monitoring plan investments. Feel free to contact your Swerdlin representative if you have questions on this subject. ■



Supreme Court Upholds Health Care Reform *(continued from page 1)*

arrangements are exempt. Benefit plans other than health plans, for example life insurance, are also not required to provide a SBC.

The SBCs must be provided to all eligible individuals during the first open enrollment beginning on or after September 23, 2012. In addition, SBCs are required to be provided to all newly eligible employees beginning January 1, 2013. Most insured plans will get SBCs from the insurer; however, it is the employer's responsibility to make sure they are distributed. Employers who sponsor self-insured plans (including HRAs) should be preparing these documents now. Swerdlin will be assisting their HRA clients in meeting the SBC obligations.

2. *New W-2 Reporting Requirements.* Employers who expect to issue over 250 W-2s for 2012 will be required to report the value of health benefits on these forms when issued in January of 2013. The idea behind the reporting requirement is to inform employees of the true cost of their health coverage. Specifically, employers will need to track, aggregate and then report the cost of coverage under any group health plan made available on a non-taxable basis. Contributions to HSAs, HRAs, employee contributions to FSAs, stand-alone dental and vision benefits, many employee assistance and wellness programs, and "non-health" plans such as life insurance and LTD are generally not reported on the W-2 in 2012. Small employers (those with less than 250 W-2s for 2012) will get a slight reprieve, but only until the W-2s for 2013.

3. *IRS Notice 2012-40, New Limits to FSAs.* In May, 2012, the IRS announced guidance regarding PPACA's upcoming limits to FSAs. The new \$2,500

limit begins January 1, 2013 and applies to the "taxable year." Fortunately for many, the IRS now interprets the "taxable year" as the FSAs Plan Year rather than the participant's Taxable Year. For example, an FSA with a December 1 – November 30 plan year will not need to limit payroll contributions until December 1, 2013. Plan Sponsors need to amend their FSA plan documents to reflect the \$2,500 limit, but the amendment is not required to be adopted until the end of calendar year 2014.

If your FSA is on a calendar-year basis, you have roughly 2 years before your document needs to be amended.

4. *Plan for the Future.* While the list of 2012 issues may seem lengthy, in reality many employers will only need to address SBCs this year. However, don't put health coverage on "autopilot" or think that the 2014 issues are going away; 2014 will be here before you know it.

Under current law, 2014 will bring significant changes to all employer-provided health coverage. Employers should take the next few months to explore what these changes are and how they may impact their benefits. This will allow time to consider various alternatives and phase in dramatic changes.

Beginning March 1, 2013, unless delayed in further guidance, certain small employers will need to provide notices to all current employees and new hires regarding how the State Health Care Exchanges work, including availability of premium tax credits, and how to contact the Exchanges in their states. Due to the anticipated differences among the Exchanges in the various states, it is not likely that the DOL will provide a model notice.

5. *Consider Swerdlin.* We recognize that many of our clients and friends are facing uncertainty regarding employee health benefits and upcoming requirements. We are available to help not only with the immediate issues of today, but to recognize the potential opportunities of tomorrow. While there is no silver bullet, "no one-size fits all solution," for many of the health benefit-related issues that will face employers today, our goal at Swerdlin is to identify critical needs and problems, and then provide solutions. Our health benefit experts and actuaries will provide independent, unbiased and innovative advice, and will offer recommendations that can help give confidence to face tomorrow's challenges by preparing today. ■



Q Some of our employees have recently had doctor office visits and did not pay any co-pay. Did something change this year with our health insurance?

A Women will now have access to new prevention-related health care services under PPACA. The new rules in the health care law requiring coverage of these services take effect at the next renewal date, on or after August 1, 2012, for most insurance plans.

Besides well-women doctor visits, mammograms and FDA-approved contraceptive methods are on the list of services that will now be covered.

Group health plans that have maintained grandfathered status are not required to cover the prevention-related services. In addition, certain nonprofit religious groups, such as churches and schools, are not required to cover these services.

Men and children are also able to take advantage of preventative services at no extra charge. These services include flu shots and other immunizations; screenings for cancer, including colonoscopies; high blood pressure; cholesterol; and depression.

Q We are an architectural firm that employs 25 people. What will we have to offer our employees under the new health care law?

A Employers with fewer than 50 employees are exempt from the new employer responsibilities under the Affordable Care Act. These businesses are exempt from penalties that otherwise will be imposed for not covering their workers.

Q In July, we received a check from our insurance carrier. They called it a rebate. What was this for?

A The Affordable Care Act requires health insurers in the individual and small group markets to spend at least 80% of the premiums they receive on health care services and activities to improve health care quality. In the large group market, this amount is 85%. This is referred to as the Medical Loss Ratio (MLR) rule or the 80/20 rule. If your insurer did not spend at least 80% of the premiums it received on health care quality, the insurer must rebate the difference.

Participant Fee Disclosure is Here!

Since participants will have questions, we have posted a list of common questions and answers to the Swerdlin website, along with the following document. If you would like a copy to distribute to your participants, please contact your Swerdlin representative.

Plan Participant Fee Disclosure FAQs

The Department of Labor (DOL) now requires employers to provide fee and expense information associated with participating in certain retirement plans. The first notice due to participants is an annual notice and provides general information about plan expenses and investment costs. The second required notice is due at least quarterly and includes fees specific to each participant's account. This notice will be provided on the quarterly participant statement beginning with the September 30, 2012 statement.

What is the purpose of these notices? The notices must disclose all fees and expenses related to retirement plan participation. The purpose behind the DOL's legislation is to provide plan participants with enough data to make informed decisions regarding retirement plan services and investment choices.

Are these fees new? Retirement plan fees are not new and most participants have been paying fees since they first entered the plan, but they may not have been aware of it. Some fees, although not visible as an expense, affect the long-term value of the account by reducing investment returns. Other fees actually reduce the current value of the account through a withdrawal of funds. The new notices require fees to be communicated in a way that all participants understand the true costs associated with plan participation.

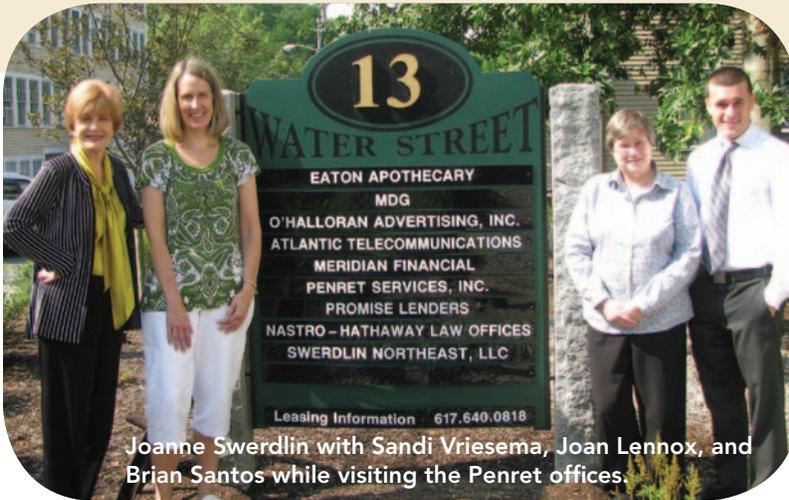
When should I expect the new fee notice? The first required notice for calendar-year plans must be delivered no later than August 30, 2012, and annually thereafter. For calendar-year plans, the second notice is included on your quarterly participant statement and must be furnished no later than November 14, 2012 (i.e., 45 days after the end of the quarter). The quarterly statement only reflects fees and expenses actually deducted from your account during the quarter to which the statement relates.

Which types of retirement plans do the participant-level disclosure rules apply to? These rules generally apply to most retirement plans that allow participants to choose their own investments.

What services am I paying for? Applicable fees and services may include:

- Investment advisors to assist in selecting and monitoring the plan's investment options;
- A recordkeeper to track contributions, earnings, distributions, and so forth;

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Joanne Swerdlin with Sandi Vriesema, Joan Lennox, and Brian Santos while visiting the Penret offices.



What's Happenin'

Congratulations to **Nick Wilson** and his wife, **Susanna**, who welcomed their second child, **Wesley Patrick Wilson**, on June 28, 2012.

Congratulations to **Graeme Hefner** who recently became engaged to **Holly Grande**. The wedding is set for March, 2013.

Anniversaries we celebrate this quarter: **Melissa Spencer**, 20 years; **Glenda Devechio**, 17 years; **Kathy Latour**, 14 years; **Patti Williams**, 9 years; **Alicia Turner**, **Jan Smith**, **Lorene Pierre**, **Rita Teague** and **Tianna Barran**, 4 years; **Gary Anderson** and **Scott Foreman**, 2 years; and **Amy Letts** and **Ana Marengo**, 1 year.

Swerdlin just completed another successful fundraiser. Our "Penny Drop" kept us busy the entire quarter and enabled us to raise \$1,000 for our charity fund.

Swerdlin recently partnered with **Cooleaf Fitness** to offer reduced prices for fitness and wellness classes for our employees. We are currently signed up for a month-long series of Yoga and Zumba classes.

Melissa Spencer and **Connie Woodmansee** attended an ESOP New South Chapter event outside of Nashville, Tennessee, hosted by Tennessee Health Management. Melissa Spencer was a presenter at this event.

Scott Foreman was a presenter at another ESOP New South Chapter

event hosted by Atlanta West Carpets in Lithia Springs, GA. **Connie Woodmansee**, **Donna Martin**, **Lorene Pierre** and **Rita Teague** also attended this June event.

Dorn Swerdlin attended The Actuarial Foundation Board of Trustees meeting in Chicago on July 12.

Cynthia Clark and **Glenda Devechio** attended the Advanced Cafeteria Plans and Benefits Conference in Seattle, July 17-20. The conference highlighted the latest information on Health Care Reform and the immediate changes effective now and over the next couple of years.

In July, **Lee Swerdlin**, President of the Atlanta Chapter of the ASPPA Benefits Council (ABC), along with other business owners in our industry, met with members of the House of Representatives in Washington, DC. The purpose of this meeting was to voice our concern against any future reduction to the contribution limits in retirement plans. We will continue to lobby and keep you updated on any proposed bills.

Mike Raker, an Actuary on our Defined Benefit Team, was featured in the Society of Actuaries, The Actuary Magazine, August/September issue. The article discussed Mike's photography hobby. To read the magazine, go to <http://www.soa.org/news-and-publications>.

Joanne Swerdlin and **Donna Martin** spent the last week in July at our Penret office in Boston, MA. Donna had an opportunity to visit with our Penret staff

and meet some of our clients in the Boston area.

Connie Woodmansee and our client, **Judy Castleberry**, CFO of O'Neal Inc., presented an "Introduction to Administration Issues 101" at the 5th Annual Conference hosted by the Carolinas Chapter of The ESOP Association. The event was held at the Pinehurst Resort, Pinehurst, NC on August 16 and 17.

Dorn Swerdlin attended the 2012 NAIFA-Atlanta/AALU Legislative Forum & Ethics Seminar at Villa Christina on August 17.

Lee Swerdlin attended the 2012 SHRM Atlanta and SEBC Benefits Conference at the Cobb Galleria on August 23.

On September 14, **Marjorie Cade** attended the annual Benefits Fair in Peachtree City. This year's theme was "Vote for Wellness & the Red, White & Blue" to go along with the upcoming election.

Barbara Sneed celebrated her 50th birthday on Saturday evening, August 11, with her family, friends and many of us from Swerdlin.

Lisbet Flaxman also celebrated her 50th birthday on July 29.

In honor of **Melissa Spencer's** 20 years with Swerdlin & Company on August 12, she was treated to a lunch at Chuy's Mexican Restaurant. Later in the afternoon, the entire office celebrated with a cake and goodies! ■



Swerdlin employees get healthy with a Zumba Class!



Melissa's 20th anniversary party.



Barbara Sneed and Glenda Devechio at Barbara's Big Party!

Participant Fee Disclosure is Here!

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- Custodians to physically hold the assets and distribute funds;
- Trustees to hold and/or manage the assets for the benefit of those participating in the plan;
- Auditors to ensure that plan assets are correctly stated, and plans are compliant with the DOL and Internal Revenue Service regulations;
- Legal or tax counsel to assist with resolving legal issues associated with the plan and to document the plan's features;
- Investment or mutual fund companies to manage the investments in the plan's investment options; and
- Other professionals to provide educational, consulting, and reporting services.

Will I be notified if my fees increase or decrease? Yes. The regulations require that fee information is provided to all eligible participants on or before the date on which investments can first be directed and again on an annual basis. If there is a change to the information, a description of such change(s) must be provided to participants at least 30 days, but not more than 90 days, before the effective date of the change(s).

What information will be provided in the annual disclosure notice?

Annual participant fee disclosures will contain:

- General plan-related information, such as investment elections, transfer restrictions, etc.;
- The administrative and individual expenses applicable to the plan;
- Information related to investments offered under the plan, including:
 - Performance and benchmarking information;
 - Fee and expense information;
 - Glossary of investment-related terms; and
 - Available annuity options, if any.

What are the requirements for the quarterly disclosure? The regulations require quarterly disclosure of the actual dollar amount of administrative or individual plan-related fees and expenses charged to or deducted from individual participant accounts, if any. A description of the services for which the charge was made is also required.

What is changing on my statement? The new quarterly statement will include a new "Fee Deductions" section listing fees charged to the account during the quarter. The statement will also include some additional fund information that may not have been available on your statement in the past.

Who will receive the disclosures? The Plan Administrator will provide the disclosures to all eligible plan participants and beneficiaries.

Can the disclosures be delivered electronically? Yes, if certain requirements are met.

How can I find out more about DOL's fee disclosure regulations? You can find additional educational materials by visiting www.daypak.net or by visiting the DOL website at www.dol.gov/ebsa. ■

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Dorn's Corner

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The third state, the waking state, is where we live every day. When we remember our dreams, we say that our dreams are not real; it was just a dream. However, it was real to us while we were dreaming. The dream is our reality while we dream. As we ascend into higher states, we are aware of the "lower" states. The first example is remembering our dreams (second state) while we are conscious in the waking state (third state). The shift here is to realize that dreaming is real, rather than being just a dream that is some kind of an unreal mental process. What we consider as the only reality is shown to be our reality ONLY in the waking state. That is, there are realities other than what we experience in our waking state. Life is much richer than it appears to be. We have capabilities way beyond our Western World viewpoint.

At the fourth state of consciousness we begin to glimpse into the non-local realm. This state is often called the transcendental state of consciousness because our awareness goes beyond our waking state and beyond space-time. We all experience this awareness at certain times, as when we observe a

beautiful sunset. We may have a feeling of connection with nature or even the entire universe. This state of pure awareness has always been present, but stress and imbalance in the nervous system have prevented the self from noticing.

The 5th, 6th, and 7th states of consciousness bring our awareness to a more and more expansive perception level. At each level, our reality and physical bodies change and we perceive all lower levels.

While we are in the mode of reaching beyond science, I refer to a book, "Bridging Science and Spirit," by Norman Friedman. He postulates that units of consciousness or CUs exist as the fundamental source of our three-dimensional world.

In "My View of the World," Schrodinger writes "Consciousness is that by which this world first becomes manifest, by which indeed, we can quite calmly say, it first becomes present; that the world consists of the elements of consciousness..."

David Bohm, a famous physicist, says "As you probe more deeply into matter, it appears to have more and

more subtle properties...In my view, the implications of physics seem to be that nature is so subtle that it could be almost alive or intelligent."

I teach the 7 levels of consciousness in my meditation class because I believe that meditation is one way to expand consciousness. As the self gains higher states of consciousness, our perception of objects changes, uncovering subtle characteristics previously hidden. An expansion of consciousness by enough people is our way to deal with the current ills in our world.

I'll be back next quarter. ■

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