

DSI NEWSLETTER

DEDICATION SERVICE AND INTEGRITY
"OUR BUSINESS IS TO SERVE YOUR BUSINESS"



DANONE SIMPSON
Insurance Services LLC
CA License 0F30734

Legal Updates and Industry News

VOLUMN 7 ISSUE 2

FALL 2008

DANONE SIMPSON INSURANCE SERVICES LLC

Our commitment as your trusted insurance advisor is to assist you with your insurance needs including negotiations, implementation of plan designs, claims and risk management. We have partnered with several Human Resources Consultants, COBRA/Flex Third Party Administrators and other entities to provide personalized programs designed to fit your company's needs. By utilizing our buying power, we have had great success in creating service outsource options at reduced rates that are partially subsidized or cost free.

Our first and foremost goal is to service our clients, making them our priority in our every decision.

PRODUCTS AND SERVICES

- Group Medical, Dental, Vision
- Short and Long Term Disability
- Long Term Care
- Employee Assistance Programs
- Voluntary Benefits
- COBRA/Flex
- 401k Plans
- Compliance Updates, Executive Seminars
- Workers' Compensation
- Property/Casualty
- Risk Services - Supervisor Training
- Claims Management and Loss Control
- Travel Assistance Programs
- Errors and Omissions
- Directors and Officers, EPLI
- Human Resources Consulting Services

Human Resources Executives- If termed employees or those who have exhausted their COBRA benefits are asking about individual coverage you may refer them to our website www.dsiemployeebenefits.com to obtain individual quotes.

Voting Reminder

Employees are eligible for paid time off for the purpose of voting only if they do not have sufficient time outside of working hours to vote. The intent of the law is to provide an opportunity to vote to workers who would not be able to do so because of their jobs.

Voting hours are from 7am to 8pm.

Employees can be given as much time as they need in order to vote, but only a maximum of two hours is paid.

Employers may require employees to give advance notice that they will need additional time off for voting.

Employers may require time off to be taken only

at the beginning or end of the employee's shift.

Source: California Secretary of State Debra Bowen

www.sos.ca.gov/elections/elections_tov.htm



PIHRA BIHBA

Gift Giveaway Winners

Thomas Harang, MA
Director of Human Resources
Neighborhood Legal Services
of
Greater Los Angeles
winner of
iPod Nano



Tarin O'Neill
Manager, Human Resources
New York Food Company
winner of
\$100 Nordstrom Gift Card



Stacey Brooks-Clark
The Academic Advantage
winner of
Snoopy Doll
With
\$25 iTunes Gift Card





McCain's and Obama's Plans to Reform Healthcare



The McCain health plan would allow people to buy insurance across state lines thus creating a competitive, national market for health insurance.

Under the McCain plan, employers could no longer buy insurance with pretax dollars. Such payments would be taxable to the employee, just like wages. However, every individual would get a \$2500 credit (and every family would get \$5000) to be applied against taxes owed.

Achieve savings in Medicare:

Promote payment reform that allows us to move away from the current fragmented and volume-based service to a system which rewards coordinated and quality focused care.

Eliminate Medicare fraud and abuse to ensure that nearly \$60 billion a year, almost 10 percent of total Medicare spending, that goes to line the pocket of criminals instead of providing quality care for seniors.

Ensure that **drug premiums for the wealthiest Americans are not being subsidized by the middle class.**

Promote a new **generation of treatment models that better manage chronic care conditions** while rewarding prevention and wellness.

Greater use of Health IT and medical homes to promote coordination of care.

Reduce drug costs by allowing **greater use of generics** (including biogenerics).

John McCain will work with governors to develop a best practice model that states can follow-a Guaranteed Access Plan or GAP-that would reflect the best experience of the states to ensure these patients have access to health coverage. There would be reasonable limits on premiums, and assistance would be available for Americans below a certain income level.

Sources: www.ncpa.org/pub/ba/ba629
www.johnmccain.com



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The Obama-Biden health plan provides affordable, accessible health care for all Americans, builds on the existing health care systems, and uses existing providers, doctors and plans to implement the plan.

Under the Obama-Biden health plan, if you like your current health insurance, nothing changes, except your costs will go down by as much as \$2500 per year.

If you don't have health insurance, you will have a choice of new, affordable health insurance options.

Make Health Insurance Work for People and Businesses-Not Just Insurance and Drug Companies.

- Require insurance companies to cover pre-existing conditions so all Americans regardless of their status or history can get comprehensive benefits at fair and stable premiums.
- Create a new Small Business Health Tax Credit to help small businesses provide affordable health insurance to their employees.
- Lower costs for businesses by covering a portion of the catastrophic health costs they pay in return for lower premiums for employees.
- Make employer contributions more fair by requiring large employers that do not offer coverage or make a meaningful contribution to the cost of quality health coverage for their employees to contribute a percentage of payroll toward the costs of their employees health care.
- Establish a National Health Insurance Exchange with a range of private insurance options as well as a new public plan that will allow individuals and small businesses to buy affordable coverage.
- Ensure everyone who needs it will receive a tax credit for their premiums.

Reduce Costs and Save a Typical American Family up to \$2500 as reforms phase in:

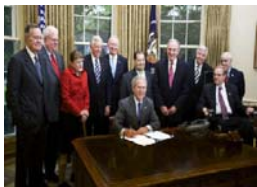
- Lower drug costs by allowing the importation of sage medicines from other developed countries, increasing the use of generic drugs in public programs and taking on drug companies that block cheaper generic medicines from the market.
- Reduce the costs of catastrophic illnesses for employers and their employees.
- Reform the insurance market to increase competition by taking on anticompetitive activity that drives up prices without improving quality of care.

Source: www.barackobama.com



President Bush Signs into Law ADA Amendments Act

On September 25, 2008, President Bush signed into law the **ADA Amendments Act** (ADAAA/S. 3406). This law (Public law number 110-325), authored by Sens. Tom Harkin (D-IA) and Orrin Hatch (R-UT), constitutes the first legislative change to our nation's landmark disability statute, the Americans with Disabilities Act of 1990 (ADA). The law becomes effective on January 1, 2009.



The purpose of the ADA Amendments Act is to overturn several Supreme Court and lower court decisions over the past decade that limited the ADA's coverage. However, the ADAAA also will leave intact the first prong of the disability definition language, so that a person will still need to show that he/she has a physical or mental impairment that "substantially limits" one or more of his/her major life activities in order to be protected under the ADA.

While the first prong of the disability definition will remain the same, the most significant changes to current law contained in the ADA Amendments Act are as follows:

- Excludes Consideration of Mitigating Measures** – The ADAAA will prohibit consideration of mitigating measures in determining whether an individual has a disability, with the exception of ordinary eyeglasses and contact lenses. In other words, employees will be evaluated without regard to the hearing aids, medication, prosthetic devices and other measures they use to manage their impairments.
- Expands the Definition of "Regarded As" Prong** – The ADAAA will provide that an individual is "regarded as" having a disability if the employee establishes that he/she has been discriminated against because of an actual or perceived physical or mental impairment. This new provision ensures that people who are fired or suffer other adverse employment actions because they are regarded as disabled can prevail if they prove that they were discriminated against. However, the "regarded as" prong would not apply to transitory and minor impairments where the impairment is expected to last less than six months. The legislation also makes clear that employers will not be required to provide a reasonable accommodation to individuals that are regarded as disabled.
- Establishes New List of Major Life Activities** – The ADAAA will introduce a new, non-exhaustive list of major life activities that will now include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. For the first time, major life activities will also include the operation of major bodily functions, including functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- Broadens construction** – The ADAAA will establish a new rule of construction emphasizing the importance of the findings and purpose language in the bill by directing courts to interpret the definition of disability consistent with those provisions.
- Authorizes regulations** – The ADAAA explicitly authorizes the U.S. Equal Employment Opportunity Commission and the Departments of Justice and Transportation to issue new regulations.

Sources:

www.yourhrresource.blogspot.com/2008/10/president-bush-signs-into-law-ada.html

www.shrm.org/hrnews_published/archives/CMS_026707.asp



New Compliance Poster Required for Federal Contractors

Executive Order 11246

Executive Order 11246 (E.O. 11246) prohibits certain federal contractors and subcontractors from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. This E.O. applies to federal contractors and subcontractors and to federally-assisted construction contractors and subcontractors, who do over \$10,000 in government business in one year. The Executive Order also requires covered government contractors to take affirmative action to insure that equal opportunity is provided in all aspects of employment. The Employment Standards Administration's **Office of Federal Contract Compliance Programs (OFCCP)** administers and enforces E.O. 11246.

POSTER REQUIREMENTS

Contractors and subcontractors who hold a single federal contract or subcontract in excess of \$10,000 or who hold contracts or subcontracts with the federal government in any 12-month period that have a total value of more than \$10,000 are required to post the EEO notice available at <http://www.dol.gov/esa/ofccp/regs/compliance/posters/ofccpost.htm>.

Federal contractors and subcontractors who (1) hold government bills of lading; (2) serve as a depository of federal funds in any amount; or (3) act as issuing and paying agents for U.S. savings bonds and notes must also post the EEO notice. The notice must be posted in conspicuous places available to employees and applicants for employment and representatives of each labor union with which the covered contractor or subcontractor has a collective bargaining agreement, such as, the personnel office, work-out facility, lunchroom, or company bulletin board. There is no particular size requirement.

The poster is also available in **Spanish** and **Chinese**. Posting of the notice in other languages is not required.

OFCCP recognizes that there are differences between its poster and the **Equal Employment Opportunity Commission's (EEOC) poster**. Despite these differences, both posters are accepted as valid by OFCCP and EEOC.

DOL CONTACTS

Employment Standards Administration (ESA), **Office of Federal Contract Compliance Programs (OFCCP)**

E-mail: OFCCP-Public@dol.gov

Tel: 1-866-4-USA-DOL (1-866-487-2365), or 1-800-397-6251; TTY: 1-877-889-5627

Source: EEOC



Workers' Compensation News

INSURANCE COMMISSIONER APPROVES 5% INCREASE IN PURE PREMIUM RATES

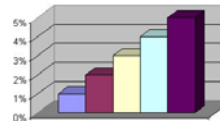
October 24, 2008

On August 15, 2008, the WCIRB proposed to the California Insurance Commissioner an average 16% Increase in advisory pure premium rates effective January 1, 2009. On September 12, 2008, the WCIRB amended its filing to include an evaluation of June 30, 2008 loss experience and a modification to the medical loss development methodology. A public hearing was held on September 16, 2008.

Earlier today, the Insurance Commissioner issued a decision regarding the January 1, 2009 filing. In the decision, the Insurance Commissioner approved a 5% average increase in pure premium rates effective January 1, 2009 applicable to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2009. (The Insurance Commissioner has adopted the term "Workers' Compensation Claims Cost Benchmark" to describe the overall change in pure premium rates.)

The Insurance Commissioner's decision, including electronic files containing the approved pure premium rates and expected loss rates, may be downloaded from the Regulatory Filings sections of the WCIRB website.

Source: www.wcirbonline.org/wcirb/wcirb_wire/2008/2008_11.html



Health Savings Account

June 2008, New IRS guidance on HSAs Highlights

For the full regulation go to: <http://www.treasury.gov/press/releases/reports/notice200859.pdf>.

Key Guidance Affecting Employees:

- An individual is ineligible for an HSA if their employer pays or reimburses some or all of the employee's medical expenses incurred before the minimum deductible is satisfied through such a vehicle as an HRA, FSA etc. (in 2008, the minimum deductible is \$1,100 for individuals and \$2,200 for families).
- An individual who enrolls in Medicare (Parts A, B, C or D) is no longer eligible to contribute to an HSA.
- If an individual ceases to be eligible during the year, he/she may contribute the statutory maximum prorated for the months during which the individual was eligible.
- In order to make the maximum contribution, an employee would have to enroll no later than December 1 of the current year and remain in an HSA insurance plan through December 31 of the following year.
- The IRS prohibits loans from an HSA and will not allow the HSA be pledged as a security for a loan. Sterling HSA is also prohibited from loaning money to the HSA.
- For 2009, the IRS has raised the maximum contribution limits to \$3,000 for individuals and \$5,950 for families. "Catch up" contribution for those aged 55 and over is set at \$1,000 for each eligible person.
- Employers are now allowed to make contributions to your HSA after December 31 but before April 15, 2009 and have such contributions count for the prior year.

Key Guidance Affecting Employers:

- Employer contributions (including salary reduction contributions) to an employee's HSA made between January 1 and April 15 may be allocated to the prior year. The employer is required to inform Sterling HSA that the contributions are for the prior year. The contributions are reported in box 12 with code W on the employees' Form W-2.
- An employer that contributes to an HSA for an individual who was never eligible for the HSA may correct the error. You may request a return of those funds to you. The employer must recover the amounts by the end of the taxable year, or be required to include the amount as gross income on the employee's Form W-2.
- For 2009, the IRS has raised the maximum contribution limits to \$3,000 for individuals and \$5,950 for families. "Catch up" contribution for those aged 55 and over is set at \$1,000 for each eligible person.
- Lastly, expenses for both an individual and employer can only be reimbursed from the start date of the HSA going forward. There is no longer the ability to backdate applications. EX: Enrollment is 4/1/08, my HSA account is not established until 6/1/08. Expenses are not eligible for reimbursement until 6/1/08.