

It Benefits You Your Employee Benefits Newsletter

May 2023

In This Issue:

- Upcoming Compliance Deadlines
- 2023 McGriff Benefit Trends Survey
- Suicide Awareness and the Impact on the Workplace
- Six Ways to Encourage Employees to Set Work / Personal Life Boundaries
- McGriff Compliance Q&A - The End of the National Emergency and the Outbreak Period
- SECURE 2.0 Act of 2022: Implications for Defined Benefit Plans
- McGriff May Webinar Opportunities

New McGriff Quarterly Publication - Pharmacy Insights!

Our [Pharmacy Insights](#) newsletter is designed to bring focus and understanding to topics related to managed care and pharmacy legislation. This quarter's issue includes:

- Five Pharmacy Benefit Legislative Regulations to Watch
- Specialty Drugs Continue to Bring Hope and Concern for Employers
- Biosimilar Impact to Consumers and Plan Sponsors



We're celebrating each and every one of our valued clients in May as part of our "May We Say Thank You" month. And to express our gratitude, the McGriff Leadership Team has prepared a special message for you below.



Please know that we're grateful for you each and every day. One way we show our appreciation is by sharing our thought leadership through publications such as this newsletter, *It Benefits You*. Keeping you abreast of important matters relating to the administration of your employee benefits is a top priority at McGriff. Our Client First philosophy drives everything we do - and we want you know how much we truly value our partnership.

From all of us at McGriff, again, thank you for trusting us to be your partner.

Upcoming Compliance Deadlines

April



COVID-19 National Emergency Ends

President Biden signed into law legislation ending the COVID-19 National Emergency on April 10, prior to the previously announced date of May 11, 2023. At the start of the pandemic, regulators instituted a separate “Outbreak Period” running concurrently with the national emergency that extends certain plan deadlines. The Outbreak Period was to end 60 days after the end of the national emergency. Informal comments from the DOL and the IRS indicate that **the tolling of benefit plan deadlines will end on July 10, 2023**, as previously scheduled. See our [McGriff Compliance Q&A: The End of the COVID-19 National Emergency and the Outbreak Period](#) for much more information.

May



COVID-19 Public Health Emergency (PHE) Scheduled to End

Employer-sponsored health plans have been required to comply with certain coverage mandates during the COVID-19 PHE, including the following:

- Health plans must cover COVID-19 diagnostic tests and related services without imposing any cost sharing (such as deductibles, copayments or coinsurance) during the PHE; and
- Non-grandfathered health plans must cover certain preventive services, including recommended COVID-19 vaccines and boosters, without cost sharing. The mandate applies to COVID-19 immunizations provided by all providers, regardless of whether they are in-network or out-of-network.
- In addition to the above mandates, for plan years beginning during the PHE, a large employer may offer standalone telehealth benefits to individuals who are not eligible for coverage under any other group health plan without violating the ACA’s market reforms.

When the PHE ends, the above mandate/rules will no longer apply.

June



Reporting on Pharmacy Benefits & Drug Costs (Filing Deadline for 2022 Data)

Plan sponsors must report information about prescription drugs and health care spending to the CMS each year. Data for 2022 reference (calendar) year is due June 1, 2023. This reporting is required for fully insured and self-funded group health plans of all sizes. The McGriff Compliance Team has prepared [a reference guide](#) that provides employers with practical steps to help them comply with this reporting obligation, and a Vendor Assistance Verification [email template](#) that contains questions employers should ask vendors in determining what they are doing to assist.

July



PCORI Fee Deadline

If an employer sponsors a self-insured health plan, including a level-funded plan or an employer-sponsored HRA, the ACA requires the employer to submit the annual Participant-Centered Outcomes Research Institute (PCORI) Trust Fund Fee. Plan sponsors must report and pay the PCORI fee using IRS Form 720. The fee amount for plan years ending on or after Oct. 1, 2022 and before Oct. 1, 2023 is \$3 multiplied by the average number of lives covered under the plan.

July



Form 5500 Filing Deadline for Calendar Year Plans

Generally, a Form 5500 must be filed no later than the last day of the seventh month after the end of the plan year for ERISA pension and welfare benefit plans. For calendar-year plans, the deadline is July 31. With few exceptions, an employer must file a 5500 if any of its ERISA benefit plans had 100 or more covered participants on the first day of the plan year.

2023 McGriff Benefit Trends Survey

McGriff recently released its third annual National Benefit Trends Survey for employee benefit strategic decision makers. The report provides key insights into the most important employee benefit trends.

More than 780 responses were collected from employers across all major industries and all geographies. One in five respondents have 500 or more employees and 35 percent are self-funded.

A few of the key insights include:

- Employee retention again ranks as the top priority of employers in 2023; with strategies surrounding engagement, learning and leadership gaining prominence to support those efforts.
- Flexible work arrangements remain important and will be a key aspect of employee engagement, productivity, and workplace satisfaction. 44% of employers provide continued flexible work arrangements; 24% plan to increase benefits in this area
- Despite economic headwinds, 74% of employers are either not changing or accelerating their talent acquisition strategy. 64% of employers are considering strategies to combat the expected impact of medical inflation in the next 12 months.

As you prepare to review your 2023 plans and think about future strategies, we invite you to review our survey results to gain insight on benefits trends across the country and specific to your industry.

Review the [2023 McGriff Benefit Trends Survey](#), and please reach out to your McGriff Benefits Consultant with any questions you may have.

Suicide Awareness and the Impact on the Workplace

With rates of suicide greatly increasing in the U.S. over the last several years, it is highly likely that many people have been affected by suicide in some way. I've lost four high school classmates, a college professor, and a work colleague - all to suicide..

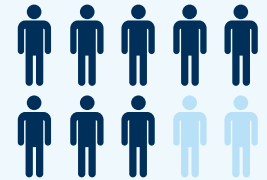
Addressing the risks and impacts of suicide can be complex and difficult, but it is incredibly important for employers to do so. Manager training, access to mental health resources, awareness campaigns, and crisis plans are just some ways that employers can help provide support to both people at risk for suicide, as well as friends, co-workers, and family members who are impacted.

Here are some key facts and statistics to know about suicide risks.

The Statistics

35% ↑

Suicides are on the rise: increased 35% between 1999-2018



People in the 45-54 age group account for 80% of suicide deaths

3-4x

Men are 3-4 times more likely than women to die by suicide; women are 1.5 times more likely than men to attempt suicide.



Workplace suicides have increased 39% since 2000

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What Are the Impacts?

Although the risks for suicide are multifactorial and complex, certain industries and occupations are at greater risk. Suicide impacts families, communities, and co-workers, and can lead to survivor's guilt.

Examples of industries and occupations at a statistically higher risk:



Mining



Oil and Gas



Construction



Transportation



Maintenance and Repair



Health Care



Agriculture and Forestry

Both Extrinsic and Intrinsic Factors Influence the Risk of Suicide

Intrinsic Factors

- Mental health conditions (depression, bipolar disorder, and substance misuse disorder)
- Chronic conditions and injuries (chronic pain, traumatic brain injury)

Extrinsic Factors

- Stressful life events (divorce, job loss, death of a loved one)
- Ongoing stress from hostile home or work environment, unemployment, bullying

Protective Factors

- Access to healthcare
- Feeling of connection and inclusion within community, sense of security and purpose

What Can Employers Do?

Many risk factors are protected as personal health information or related to private life. But employers can still engage in best practices to help mitigate risks, provide resources, and support survivors:



Workplace policies that foster an inclusive workplace and promote respectful interaction



Awareness and communication of benefits available through employee assistance programs and your medical plan, as well as community and national resources for urgent needs (24/7 suicide prevention hotlines, websites, text lines, community support groups)



Comprehensive programs and well-being support for improving overall health



Manager training and awareness of employees who are exhibiting signs of self-harm or possibly posing a risk to themselves or others



Crisis management plans in place before an event occurs, reviewed annually to confirm vendors and contact information is current



Katie O'Neill, DC, BS
McGriff Clinical Wellness Practice Leader



This article was previously published in **HR Professionals Magazine**. For your free subscription, [click here](#).

SOURCES:

"Additional facts about suicide in the U.S." American Foundation for Suicide Prevention; Suicide statistics | AFSP; "The case for stepping up suicide prevention efforts." Business Group on Health; "What employers need to know about suicide prevention." Harvard Business Review

Suicide Awareness

In the last several years, the rates of deaths by suicide, as well as the instances of these deaths occurring at the workplace, has markedly increased and raised significant concerns. With May 1 marking the beginning of Mental Health Awareness Month, we wanted to take this opportunity to provide much-needed resources and education on understanding more about the risks and impacts of suicide.

[In this 20 minute webinar](#), join speakers Katie O'Neill and Janie Warner from our Clinical Wellness and HR Advisory Practices to learn more about industrial and occupational risk factors, opportunities for training and prevention, and crisis management as it relates to suicide deaths.



Six Ways to Encourage Employees to Set Work/Personal Life Boundaries

If you want to encourage better work and home boundaries for your employees but are wondering how to go about it, we have some tips to get you started.

Most everyone knows what the “hustle” is. It’s been a part of work culture since the early 19th century, when the word was first used to mean “gumption” or “hard work.” Depending on the context, hustle may be a virtue, the antithesis of laziness, or a necessity - the extra effort one must perform to overcome bad luck, oppression, or structural barriers.

In this line of thinking, if you can’t get ahead it’s your own fault, and you just need to work harder. You can be or do anything you want if you’re willing to put in the effort. It’s what we tell our kids so they can achieve the “American Dream” - you’ve got to work hard to get good grades to get into an elite school to get a lucrative job. In the workplace, hustle means showing how dedicated you are to the organization by being the hardest worker. You’re the first one in the office and the last one to leave. You take calls and check email while on vacation. Even when you’re sick, you’re reachable.

Sometimes all that hard work pays off. Some go-getters get promotions and raises. But success stories notwithstanding, burning the midnight oil doesn’t increase productivity. In 2019, CNBC shared a survey from Stanford University showing that “productivity per hour decline(s) sharply when a person works more than 50 hours a week.”

Hustle can hasten burnout. A 2018 Deloitte survey showed that 77% of employees have experienced burnout in the workplace and nearly 70% of them feel like their employer isn’t doing enough to prevent it. Among the leading causes cited were working long hours or over weekends and having to meet unrealistic expectations.

If you’ve conducted job interviews recently, you probably know that many job seekers today have little love for hustle culture. Instead, they want the freedom at work to set boundaries so getting their jobs done doesn’t encroach on their lives outside of work. This makes good business sense, too. According to Harvard Business Review, when employers support work-life balance, they promote productivity, reduce turnover, improve employee health, and boost diversity.

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If you want to encourage better work and home boundaries for your employees but are wondering how to go about it, we have some tips to get you started:

Start at the top. Encourage your managers to come and go at reasonable times and take days off. Discourage making calls or sending emails after regular working hours. Ensure that leaders are taking breaks throughout the day and are encouraging their employees to do so as well.

Focus on outcomes. If possible, set substantive goals with your employees rather than focus on the number of hours they're working. Train managers on how to evaluate performance based on objective measurements of productivity and efficiency. It's the good work that matters, not the time spent at a workstation, the number of keystrokes logged, or the appearance of busyness. Added bonus: your managers will be better able to manage their time and set healthy boundaries around their work if they don't feel compelled to monitor their direct reports' every working moment.

Ensure proper staffing and workload. Set expectations around the amount of work each employee should be able to complete in a standard workday. Share those expectations with the team and get their input on what a reasonable workload should look like and whether they're feeling underworked or overworked. If you're understaffed, you may need to assign extra work to employees, but make sure no one's plate gets so full they're at risk of burnout. Reward the extra effort and watch for signs of low morale.

Be flexible. As you are able, give employees the ability to flex their schedule to take care of personal business during the workday without jumping through a lot of hoops. Use a shared calendar so everyone knows who is available and when. If your workplace has a variety of shifts, consider offering employees the ability to work hours across different shifts to find flexibility.

Revisit paid time off (PTO) options. Review what you currently offer and dig into why you have the PTO plans you do. Make sure you're offering at least as much as your competitors (if at all possible). In addition to paid time off for vacation and illness, consider offering paid time off for specific activities like volunteering.

Talk with your employees. Ask them how they feel about their workload, whether they currently have healthy boundaries between their life at home and life at work, and what would help them better attend to their personal obligations. Survey them about what's causing the most stress at work and what work-related matters may be keeping them up at night. Keep an open discussion going.

This article was published by our strategic partner, Mineral, and reprinted with permission.

McGriff Compliance Q&A: The End of the National Emergency and the Outbreak Period

Q: On April 10, 2023, President Biden signed into law legislation ending the COVID-19 National Emergency prior to the previously announced date of May 11, 2023. At the start of the pandemic, regulators instituted a separate “Outbreak Period” running concurrently with the national emergency that extended certain plan deadlines. The Outbreak Period was to end 60 days after the end of the national emergency, or at a date announced by the agencies.

While the legislation signed on April 10th would have ended the Outbreak Period on June 9th, informal comments from the Department of Labor (DOL) and the Internal Revenue Service (IRS) indicate that the tolling of benefit plan deadlines will end on July 10, 2023, as previously scheduled. Assuming this July 10th date, how will the end of the Outbreak Period affect our group health plans?

A: In the first few months of the COVID-19 pandemic, we saw a number of significant disruptions to our daily routines. Particularly relevant to group health plans, few participants were able or willing to access health services. In addition, standard administrative tasks, such as claims processing and billing, were delayed due to workforce disruption and other effects of the pandemic.

As part of the federal government’s response to these disruptions, regulators issued joint agency Notice of Extension of Certain Timeframes for Employee Benefit Plans, Participants, and Beneficiaries Affected by the COVID–19 Outbreak and Disaster Relief Notice 2020-01. These notices mandated a tolling (i.e., pausing) of certain standard ERISA timeframes during what was called an Outbreak Period. In other words, the clock on certain participant deadlines would not run during the Outbreak Period.

Specifically, the rules tolled participant deadlines related to:

1. Claims and appeals procedures for ERISA plans, including medical, dental, vision, HRA and health FSA plans;

2. COBRA elections, premium payments and notices of qualifying events or disability; and
3. Employee notices of HIPAA special enrollment events.

The Outbreak Period was effective retroactive to March 1, 2020, and designed to end 60 days after the announced end of the national emergency. Initially, it was imagined the national emergency declaration and Outbreak Period would be in place for a short period of time, and then the clock on the deadlines would begin to run. However, it quickly became clear that the COVID-19 pandemic would last much longer than expected.

Nearly one year after the Outbreak Period began, regulators issued Disaster Relief Notice 2021-01 that clarified the Outbreak Period would be effective beyond one year, but any individual deadline could not be tolled for more than one year. As a result, since March 1, 2020, the deadlines described above have been tolled for one year in every case.

Examples:

- Participant A’s standard COBRA election deadline was January 1, 2021. Due to the Outbreak Period extension, Participant A’s new COBRA election deadline was January 1, 2022.
- Participant B’s standard COBRA election deadline was April 1, 2021. Due to the Outbreak Period extension, Participant B’s new COBRA election deadline was April 1, 2022.

Now that we know the Outbreak Period is still scheduled to end on July 10, 2023, plans can begin to wind down administration of these deadline extensions. After July 10, the clock will begin to run for deadlines that have not already been extended for one year.

[Click here](#) for the full McGriff Compliance Q&A setting out examples for each of these deadline extensions.



SECURE 2.0 Act of 2022: Implications for Defined Benefit Plans

The SECURE 2.0 Act is designed to strengthen the retirement system and Americans' financial readiness for retirement. Building on the SECURE (Setting Every Community Up for Retirement Enhancement) Act of 2019, the new law is focused on increasing access, streamlining administration and reporting requirements, and preserving retirement income. It was enacted late last year as part of the Consolidated Appropriations Act 2023.

SECURE 2.0 also includes provisions that will impact Defined Benefit (DB) plans in the following ways:

- Plan fiduciaries now can choose to not try to recoup "inadvertent payments" (overpayments) to plan participants. There is also fiduciary relief for failing to make the plan whole. If fiduciaries do try to recoup the overpayments, there are limitations imposed in order to protect participants.
- Previously, required minimum distributions (RMDs) of benefits were triggered at age 72 (under the SECURE Act). With SECURE 2.0, the triggering age has increased to age 75 in two stages. The age for RMDs was increased to age 73 effective January 1, 2023 and to age 75 effective January 1, 2033. For example, someone who turns 72 in 2023 will have a required beginning date of April 1, 2025.
- The penalty (excise tax) for failing to take an RMD is reduced from 50% to 25%. If a correction is made within a two-year correction window (subject to some limitations), the tax is reduced to 10%.
- The involuntary "cash out" limit increases from \$5,000 to \$7,000 effective for distributions after December 31, 2023.
- The Department of Labor (DOL) must review Interpretive Bulletin 95-1 (regarding selection of an annuity provider) to determine if any changes are needed and report back to Congress no later than the end of 2023.
- The DOL and Department of the Treasury must review the rules regarding disclosures for lump sum windows (most of which are covered by IRS regulations) and issue joint regulations by the end of 2023. The new law also requires plan sponsors to provide:
 - Data to the DOL and Pension Benefit Guaranty Corporation (PBGC) regarding lump sums offered to participants
 - A model notice
 - Certain specified information to participants/beneficiaries 90 days before a decision period
- An exception to the 10% penalty tax on early withdrawals for terminally ill participants. Participants must provide "sufficient evidence" to the plan administrator that they have a condition or illness that is reasonably expected to result in death within the next 84 months.
- For DB plans, unless a participant elects otherwise, the plan must furnish a paper benefit statement once every three years. Exceptions are provided for plans following the DOL's 2002 safe harbor rule. This is effective for plan years beginning after December 31, 2025.
- The variable rate premium will no longer be indexed for inflation and is set permanently at 5.2% (which is the 2023 level) of the plans' unfunded vested benefits.

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- For cash balance plans with variable interest crediting rates, for backloading rules the interest crediting rate treated as in effect and as the projected interest crediting rate is a reasonable projection of such variable rate, subject to a maximum of 6 percent. The practical consequence of this change is that plans will be permitted to provide larger pay credits for older, longer service workers without the risk of failing the anti-backloading rules.
- The Department of Treasury is directed to amend the regulations (within 18 months) affecting minimum funding rules for DB plans to reflect that pension plans are not required to assume mortality improvements at any age greater than 0.78% (the 0.78 figure may be updated to reflect overall mortality changes as projected by the Social Security Administration). This provision will not be in effect, in practice, until 2024.
- Under prior law, the rules regarding using assets from an overfunded pension plan to pay retiree health and life insurance benefits (Sec. 420 transfers) were scheduled to sunset at the end of 2025. The sunset date has been extended to the end of 2032. Transfers to pay those benefits are allowed if the plan is at least 110% funded and the transfers are limited to no more than 1.75% of plan assets.
- Beginning in 2024, DB plans must provide additional information regarding the plans' funded status on their annual funding notices.
- DB Plans are currently required to file reports with federal agencies (e.g., Form 5500) and provide numerous notices to participants (e.g., Summary Plan Description). SECURE 2.0 requires the Secretaries of Labor and Treasury and the Director of the PBGC to study the disclosure and reporting requirements on plan sponsors and submit a report to Congress within three years of enactment addressing possible avenues for simplification, consolidation, or standardization.

Plans have until the end of the first plan year beginning on or after January 1, 2025 to adopt amendments pursuant to SECURE 2.0. Additionally, the plan amendment deadlines under the original SECURE Act, the CARES Act, and the Taxpayer Certainty and Disaster Tax Relief Act of 2020 are updated to the SECURE 2.0 dates.

For more information on this topic or other pension plan issues, please contact Dan Berry in the McGriff Employee Benefit Solutions Retirement Consulting practice at dan.berry@mcgriff.com

Is Your Company SECURE?

Ogletree Deakins Webinar

1.0 PDC SHRM / HRCI Pending

May 2 | 12:00 pm EDT

Click [here](#) to register!

May 17 | 12:00 pm EDT

Click [here](#) to register!

Attached to the Consolidated Appropriations Act of 2023 and signed into law on December 29, 2022, SECURE 2.0 makes sweeping changes to employer-sponsored retirement plans. The general themes of SECURE 2.0 are:

- Broader access to retirement plans
- More incentives to employers to provide access
- Broader access to retirement account funds
- Ease of administration

Attorneys with Ogletree Deakins will outline what you need to know about SECURE 2.0, and changes for your company's retirement plans.



Daniel C. Berry, FSA, MAAA, EA
McGriff Retirement Consulting

McGriff May Webinar Opportunities

As part of McGriff's commitment to bring you information on regulatory updates, current trends and best practices, we invite you to the below webinars scheduled during the month of May. We hope you can join us for these educational opportunities.

State Wars: Updating Your Multistate Handbook and Employment Agreements Like a Jedi Master

1.0 PDC SHRM / HRCI Pending

May 9 | 12:00 pm EDT

To register, please [click here](#)

May 24 | 12:00 pm EDT

To register, please [click here](#)

Keeping up with state and local employment laws can feel like a full-time job. In this webinar, Ogletree Deakins will share insights into how multistate employers can best structure and update two important compliance tools: handbooks and business protection agreements. This presentation will include real examples of the peaks and pitfalls encountered when drafting these key documents.

2023 McGriff National Benefit Trends Survey Results

1.0 PDC SHRM / HRCI Pending

May 25 | 2:00 pm EDT

To register, please [click here](#)

McGriff surveys hundreds of employers representing major industries across the country. These survey results provide keen insight into the most important employee benefit trends of the day. Join a group of our McGriff National Specialty Practice leaders to review the results of our latest trend survey and learn about which benefit strategies are gaining traction in 2023.

Monthly Mineral Demonstration

May 23 | 2:00 pm EDT

To register, please [click here](#)

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