



## Benefits Brief

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#### » [High Court To Rule On ERISA Plan Benefit Determinations](#) National Underwriter - January 22, 2008

The U.S. Supreme Court has agreed to take up a case involving questions about whether a company that both insures and administers an employee benefit plan has an inherent conflict of interest. MetLife Inc., New York, asked the court to review the case to resolve differences in the rules federal courts in different regions of the country apply to plan benefit determination appeals. The administrators usually operate under the Employee Retirement Income Security Act of 1974.

MetLife alone processes more than 290,000 disability claims a year, and it "desperately needs a resolution of this issue so that it knows how properly to manage its massive benefits business," MetLife says. MetLife contends in court filings that ERISA specifically permits an insurer to insure and administer the same ERISA plan. Requiring employers to hire separate insurers and benefits administrators to avoid conflict-of-interest allegations could increase plan costs, MetLife says.

The Supreme Court has decided not to consider a question from the solicitor general about "whether an ERISA plan administrator must consider in its written benefit determination a decision of a Social Security Administration administrative law judge granting disability benefits."

The court has asked lawyers for MetLife to submit a brief by Feb. 25, and it has asked lawyers for Glenn to file a brief by March 24.

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#### » [Wellness Program Analysis](#) U.S. Department of Labor - February 14, 2008

The U.S. Department of Labor is considering the Issue of what types of health promotion or disease prevention programs offered by a group health plan must comply with the Department's final wellness program regulations and how does a plan determine whether such a program is in compliance with the regulations. On December 13, 2006, the Departments of Labor, the Treasury, and Health and Human Services published joint final regulations on the nondiscrimination provisions of the Health Insurance Portability and Accountability Act (HIPAA). See 29 CFR 2590.702. The final regulations include guidance on the implementation of wellness programs.

HIPAA's nondiscrimination provisions generally prohibit a group health plan or group health insurance issuer from denying an individual eligibility for benefits based on a health factor and from charging an individual a higher premium than a similarly situated individual based on a health factor. Health factors include: health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), and disability. An exception provides that plans may vary benefits (including cost-sharing mechanisms) and premiums or contributions based on whether an individual has met the standards of a wellness program that complies with paragraph (f) of the regulations.

The regulations apply to group health plans and group health insurance issuers on the first day of the plan year beginning on or after July 1, 2007. Accordingly, for calendar year plans, the new regulations began to apply on January 1, 2008.

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#### » [States Lead Push For Paid Sick Days](#) Stateline.org - February 13, 2008

With this year's flu epidemic in full swing, nearly half of all U.S. workers who fall ill or have sick kids must decide whether to stay home and lose wages or go to work sick and expose others, a choice many say no one should have to make.

Advocates for making paid sick days a basic labor standard say the United States should follow all other developed countries and require businesses to let ill or injured employees miss work without docking their pay or threatening their employment. But businesses argue such a requirement could drive some companies out of business.

Come Election Day in Ohio, voters in the all-important presidential swing state may weigh in on the issue if an effort by its supporters ends up on the ballot. Meanwhile, lawmakers in 12 states and the District of Columbia are expected to consider proposed legislation that would require employers to allow workers to miss a certain number of work days each year to recover from an illness or care for an ailing family member - without a reprimand or lost wages.

But the movement faces stiff opposition from business leaders who say the requirement would drive up costs, force layoffs and put some companies out of business.

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» **New FMLA Proposal Overhauls Current Law**  
Employee Benefits Advisor - February 14, 2008

The Department of Labor recently published a new proposal to update regulations for the Family and Medical Leave Act.

While FMLA is "generally working well," there is "ambiguity in the regulations, where there is increasing friction between employers and employees," DOL states. The proposal includes guidance in multiple areas, including serious health conditions, employer notice obligations and medical certification. The measure also added recent FMLA amendments that allow additional coverage for military personnel and their families.

The proposed regulations reflect findings from DOL studies, recent court rulings and public comments. DOL is accepting comments on its proposal until April 11.

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» **Employee Benefits Menu Boosted by Mix of Voluntary Options**  
Workforce Management - February 12, 2008

More U.S. employers are offering voluntary benefits to their employees for two main reasons: the growing cost of health care, which has led employers to shift costs to voluntary benefits, and the desire to attract and retain employees, experts say.

According to the fifth annual Study of Employee Benefits Trends by New York-based Metropolitan Life Insurance Co., 39 percent of employers ranked providing a wider array of voluntary benefits as either "extremely important" or "very important" in 2006, up from 31 percent in 2005.

Kathy McPhillips, director of benefits for Bensalem, Pennsylvania-based Charming Shoppes Inc., which operates 2,400 retail stores in 48 states, added homeowners, auto and pet insurance and a computer purchasing program to its existing voluntary benefits last year for its 33,000 employees. Furthermore, a voluntary benefits program gives employees access to benefits at better rates because they are part of a group.

Employers also are using so-called mini-medical plans, which cover basic medical services that include physician visits and prescription drugs, as a tool to retain employees where they may not have had medical coverage before, says Phil Grece, New York-based vice president and product manager in American International Group Inc.'s domestic accident and health division.

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» **Health Care Costs Higher for Healthy Individuals Over Lifetime, Study Finds**  
KaiserNetwork.org - February 6, 2008

Lifetime health care costs for obese individuals and smokers are lower than those for healthy individuals who live years longer, according to a study Monday on the Web site of the Public Library of Science Medicine, the AP/Boston Globe reports. For the study, led by economist Pieter van Baal of the National Institute of Public Health and the Environment in the Netherlands and sponsored by the Dutch Ministry of Health, Welfare and Sport, researchers developed a model to predict lifetime health care costs for 1,000 individuals in each of three groups -- obese individuals, smokers and healthy individuals. Researchers based the model on "cost of illness" data and disease prevalence in the Netherlands in 2003.

Obese individuals had the highest health care costs from age 20 to 56, and obese individuals and smokers had a higher rate of heart disease than healthy individuals, the study found. However, the study found that obese individuals and smokers had lower lifetime health care costs than healthy individuals because they died earlier.

On average, healthy individuals lived 84 years, compared with 80 years for obese individuals and 77 years for smokers, the study found. Healthy individuals on average had lifetime health care costs of \$417,000, compared with \$371,000 for obese individuals and \$326,000 for smokers, according to the study.

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