

**Mission Statement**

PEBA will strive to be recognized throughout the Delaware Valley as the premier organization in all areas related to employee benefits and compensation by providing opportunities for:

- education
- information
- professional development and exchange, and
- sharing professional expertise.

**Inside This Issue**

Understanding the Impact of the Mental Health Parity Act . . . . .1

Executives Pay A Price When Employers Accept Bailout Money . . . . .2

PEBA's Membership Development Committee . . . . .3

Americans With Disabilities Amendment Act of 2008 Restores Law's Original Intent . . . . .4

Announcing PEBA's 2009 Program Calendar . . . . .5

Use Webtools To Make Your Job Search Easier . . . . .7

Defined Contribution Fees – Considerations For Plan Sponsors And Fiduciaries . . .8

Thanks To You, We're Growing!! . . . . .9

## Understanding the Impact of the Mental Health Parity Act

By Christine Stanton

The picture for mental health benefits is shifting again. Changes to the Mental Health Parity Act of 1996 were recently passed as part of the Emergency Economic Stabilization Act of 2008. These changes, effective on January 1, 2010, will greatly expand the reach of the Act. This article will provide a brief history of the Mental Health Parity Act and will help you understand how recently passed changes will impact mental health benefits coverage beginning in 2010.

**LOOKING BACK**

**The Mental Health Parity Act of 1996:**

- Required that annual or lifetime dollar limits on mental health benefits be no lower than dollar limits for medical and surgical benefits offered by a group health plan or health insurance provider.
- Did not include parity for substance use disorder benefits.
- Allowed employer flexibility regarding the scope of mental health benefits offered to workers and their families.
- Provided exemptions for certain small employers and for group health plans facing increased costs of over 1%.

**LOOKING AHEAD TO 2010**

**The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008:**

“The Act” was passed as part of the Emergency Economic Stabilization Act of 2008. President Bush signed the bill into law on October 3, 2008. Recognizing the

limitations of the original Mental Health Parity Act, Senator Pete Domenici (R-N.M.) remarked, “We are ushering in a new era of health care for those with mental illnesses. No longer will we allow mental health to be treated as a stepchild in the health care system. If you have insurance, then your mental health care must be equal to the benefits you get for any other disease.”

The Act will require significant changes to coverage provisions for mental health benefits. Here is a brief overview of the changes effective on January 1, 2010. (Note: Employers should consult with legal counsel for specific guidance on compliance).

**Equal Benefits**

The Act requires coverage for mental health and substance use disorders that is equal to medical and surgical coverage. The law does not require a group health plan to provide mental health and substance coverage. However, if the plan does provide such benefits, the financial requirements and treatment limitations for mental health or substance use disorder benefits may not be more restrictive than the requirements and limitations applied to medical and surgical benefits covered under the plan. Financial requirements include deductibles, copayments, coinsurance, and out-of-pocket expenses. Treatment limitations include limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

*Continued on Page 5.*

# Executives Pay A Price When Employers Accept Bailout Money

by Brian M. Pinheiro and Mary J. Mullany

On October 3, 2008, the President signed into law the largest financial bailout package in US history. The Emergency Economic Stabilization Act ("EESA") is intended to restore liquidity and stability in the U.S. financial system. The EESA provides broad authority to the Secretary of the Treasury to purchase "troubled assets" or otherwise invest in financial institutions under a Troubled Asset Relief Program ("TARP"). Troubled assets generally include residential and commercial mortgages and any securities, obligations, or other instruments based on those mortgages, as well as any other financial instrument whose purchase the Secretary deems necessary to promote financial market stability. The EESA initially authorized the Secretary to spend up to \$250 billion under the TARP, and Congress may increase the bailout budget to as much as \$700 billion.

Following enactment of the EESA, the Treasury Department moved quickly to establish the following programs under the TARP to invest the bailout funds.

- **Capital Purchase Program ("CPP")**  
Under the CPP, the Treasury may purchase up to \$250 billion of senior preferred shares of qualified financial institutions. The Treasury has established the terms of such preferred stock, which includes a minimum and maximum investment, dividends, board representation if the dividends are not paid, and companion warrants to purchase common stock of the financial institution in an amount equal to 15% of the investment made. The preferred stock and the common stock underlying the warrants must be freely transferable by the Treasury. Under the CPP, the Treasury has made investments in many publicly traded financial institutions and is in the process of finalizing investments in privately held financial institutions.

- **Program for Systemically Significant Failing Institutions (the "PSSFI")**

Under the PSSFI, the Treasury may provide direct assistance to certain failing firms on terms negotiated on a case-by-case basis.

At least initially, the Treasury Department has focused on the investment of bailout funds under the CPP. The EESA provides a mechanism for an auction-based process for purchasing troubled assets, but that program is on hold.

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*Employers receiving bailout funds should review existing compensation agreements.*

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## **Executive Compensation Limitations and Restrictions**

A financial institution participating in TARP is subject to restrictions designed to limit and discourage the institution from paying excessive compensation, particularly severance, to its senior executive officers, or "SEOs." SEOs include the Chief Executive Officer (CEO), the Chief Financial Officer (CFO), and the three other most highly compensated executive officers. The most highly compensated officers are determined in accordance with Item 402 of Regulation S-K promulgated under federal securities law, which requires consideration of the total compensation paid for the last completed fiscal year. Under the TARP, this rule applies to both publicly traded or privately held financial institutions.

The EESA's restrictions on executive compensation are mandatory for certain TARP programs and must be adopted by a financial institution participating in CPP. This article focuses on such restrictions.

Financial institutions that participate in the CPP must enter into a contract with the Treasury Department pursuant to

which they agree to meet "appropriate standards for executive compensation and corporate governance." These standards include:

- Limits on incentive compensation that would encourage SEOs to take unnecessary and excessive risks that threaten the value of the financial institution;
- Requirements to provide for the recovery or "clawback" of any bonus or incentive compensation that has been paid to the SEOs based on statements of earnings, gains or other financial criteria or measurements that are later proven to be materially inaccurate;
- A prohibition on any golden parachute payments to any SEO; and
- An agreement not to deduct annual compensation to SEOs in excess of \$500,000.

These standards must remain in effect for as long as the Treasury retains its debt or equity position in the financial institution. In addition, the SEOs of a participating financial institution must agree to waive any potential claims arising from the application of the executive compensation restrictions to their current compensation arrangements.

## **Limits on Incentive Compensation**

A financial institution participating in the CPP must take the following actions.

**Identify Risks.** The Compensation Committee must identify the long-term and short-term risks that may threaten the financial institution's value, and then identify the features in any SEO incentive compensation arrangements that could encourage SEOs to take such risks. Incentive compensation arrangements include performance-based equity or cash programs, performance-based vesting conditions in SERPs, change in control agreements, and other nonqualified deferred compensation arrangements.

**Review Incentive Programs.** Within 90 days following a purchase or investment by the Treasury under the CPP, the Compensation Committee must promptly review SEO incentive compensation arrangements with the institution's senior risk officers to ensure that the arrangements do not encourage SEOs to take unnecessary and excessive risks that threaten the financial institution's value. If inappropriate incentives are identified, the Committee must limit or eliminate those incentives. Further, the Committee must meet at least annually with the institution's senior risk officers to review the relationship between the institution's risk management policies and practices and the SEOs' incentive compensation arrangements.

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*Golden parachutes  
limited at firms  
receiving bailout funds*

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**Certify the Results.** The Compensation Committee must certify annually that it has completed the reviews identified above. A public reporting company is required to include the certification in the Compensation Committee Report included with the company's Compensation and Discussion Analysis ("CD&A") required under Item 402(b) of Regulation S-K. Privately held institutions must file the certification with their primary regulatory authority. The Treasury has provided the following example of an acceptable certification for the Compensation Committee Report: "The compensation committee certifies that it has reviewed with senior risk officers the SEO incentive compensation arrangements and has made reasonable efforts to ensure that such arrangements do not encourage SEOs to take unnecessary and excessive risks that threaten the value of the financial institution."

While these executive compensation requirements apply only to TARP participants, John W. White, Director of the SEC's Division of Corporation Finance, recently encouraged all public reporting companies to discuss at a compensation committee meeting the ease with which executives can meet incentive targets and analyze whether

market events affect the company's compensation decisions. Mr. White indicated that the results of the analysis should be included in the CD&A. He further noted that the SEC staff expects CD&A disclosure of the impact of recent events on compensation programs (if material), and indicated that all public reporting financial institutions will be reviewed annually by the SEC.

**"Clawback" Provisions.** Financial institutions must retain the power to recover, or "claw back," bonus and incentive compensation paid to SEOs if those payments were based on materially inaccurate financial measures. The EESA clawback standard is more comprehensive than a similar standard set forth in Section 304 of the Sarbanes-Oxley Act of 2002. Under the EESA, the clawback standard applies to both public and private institutions; to more senior executives (the CEO and CFO and the three other highly compensated executives); and any material inaccuracy connected to the financial measure(s) used to determine bonus and incentive compensation (as compared to the narrower SOX requirement for a financial statement restatement because of fraudulent issues). For example, if the assessment of a performance metric used to determine incentive compensation is materially inaccurate, the incentive compensation would be subject to clawback, even if the financial statements are not impacted.

**Golden Parachute Payments.** Financial institutions participating in the CPP cannot make any "golden parachute" payments to SEOs while the Treasury holds a debt or equity position in the institution. Under Section 280G of the Internal Revenue Code, golden parachute payments are defined as payments made to a disqualified individual that are contingent upon a change in control of the employer and that equal or exceed three times (3x) a "base amount" (i.e. five-year average compensation reported on Form W-2).

The EESA expands the definition of a golden parachute payment to include certain severance payments made to the SEOs of a financial institution participating in the CPP, even without a change in control, and any payment that would not have been made but for an

*Continued on Page 6.*

# PEBA's Membership Development Committee

By

Teresa C. Armstead, PHR, CBP  
and David Madans

During 2008, the Membership Development Committee has been focusing its efforts on diverse and innovative ways to attract, retain, and grow PEBA membership. As with other committees, our team has been restructured and we've added several high-level HR and benefits professionals who bring depth and experience to support PEBA's growth.

## 2008 Committee Goals

**Membership Survey.** In late summer 2008, the committee released a member satisfaction survey. Understanding member feedback is crucial for the growth and retention of our organization, and the overall results showed that members are satisfied with PEBA services. The committee will continue to use these types of survey results to identify areas for improvement and make positive changes.

**New Member Welcome.** We are pleased to announce initiatives to welcome new and prospective PEBA members, helping to cut some business expenses and add a personalized touch. Examples include:

- Converting the new member packet from paper to online.
- A welcome telephone call to new members from the Membership Development Committee.
- At each monthly event, a new member orientation class conducted by a committee member.

As we begin 2009, the Membership Development Committee will continue to work towards producing a constructive PEBA experience for all members.

*Teresa C. Armstead, PHR, CB is  
Benefits Project Manager at  
ADVANTA Corporation.*

*David Madans is Vice President  
at CBIZ.*

# Americans With Disabilities Amendment Act of 2008 Restores Law's Original Intent

By Virginia Mallonee, J.D., LL.M.

The Americans with Disabilities Amendments Act of 2008 (the "ADAA"), adopted in September, 2008, is effective January 1, 2009. It amends the original American with Disabilities Act of 1990 (the "1990 Act") by liberalizing the definition of what constitutes discrimination on the basis of disability. The ADAA specifically rejects two earlier Supreme Court decisions (*Sutton v. United Airlines* and *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*) stating that they were inconsistent with the Congressional intent behind the 1990 Act. The ADAA of 2008 corrects these overly narrow interpretations and more broadly defines when discrimination is prohibited.

The 1990 Act generally prohibited discrimination based on disability in job application, hiring, promotion, firing, pay, job training, or other employment benefits. For these purposes, "disability" was defined as any of the following:

- a physical or mental impairment that substantially limits one or more of the major life activities of the individual; or
- a record of such an impairment; or

- being regarded as having such an impairment.

In other words, an individual would be in the protected group if he or she were actually disabled as defined above, or had a record of being disabled in the past which subsequently gave rise to discrimination against him or her, or was "regarded" as being disabled by the employer and the employer was discriminatory because of this characterization.

The ADAA of 2008 liberalized and expanded the meaning of "major life activities," "substantially limit," and "being regarded" as used in the above tests.

As defined under the new law, a *major life activity* includes task-related activities such as seeing, hearing, walking, lifting, etc., which had previously been included in EEOC regulations. The list was expanded to include the operation of body functions, including the immune system, digestive tract, brain, circulatory system, and reproductive system, and the EEOC is directed to expand its regulations accordingly.

Under the new law, deciding whether an impairment *substantially limits a major life activity* so as to be considered a disability must be made without regard to any mitigating measures such as medication, equipment, or assistive technology used by employees to manage their condition. For example, an employee who is deaf without a hearing aid, but can hear with the assistance of the aid, is nonetheless considered disabled. The sole exceptions are eyeglasses and contact lenses. An employee whose eyesight can be corrected with glasses or contacts would not generally be considered disabled due to poor eyesight.

The new rules also provide that (1) an impairment that substantially limits one life activity need not limit other life activities to be considered a disability, and (2) an impairment that is episodic or in remission is still a disability if it would limit a major life activity when active.

Finally, the new rules reduce the proof an individual needs to show in order to prove discrimination because he or she was "regarded" as having a disability. An individual need only show discrimination because of an actual or perceived disability, even if he or she were not in fact *substantially limited* due to the disability. The ADAA instructs that in law suits, courts should focus on the analysis of the alleged discrimination rather the plaintiff's actual or perceived disability.

With the new law's January 1, 2009 effective date, all procedures, employee manuals, and benefit programs related to job application, hiring, promotion, firing, pay, job training, or other employment benefits should be reviewed for compliance with these new definitions and updated, if necessary.

*Virginia Mallonee, J.D., LL.M., is Managing Consultant at The Savitz Organization.*



**It's not a Secret!**  
**Spread the News!**  
PEBA's Annual Forum  
"The Power of Leadership in Challenging Times"  
Wednesday, April 22, 2009  
7:30am-3:30pm  
The Philadelphia Marriott  
12th and Market Streets  
Register by Feb 22 and receive a gift certificate for a free morning program.  
Go to [www.peba.org](http://www.peba.org) for more details!

# ANNOUNCING PEBA'S 2009 PROGRAMS CALENDAR! 17

In 2009, PEBA will be offering 17 educational programs to help you and your employees develop new skills and strategies, meet other HR professionals in the Delaware Valley, and expand your professional network.

Program details for upcoming sessions are available on the PEBA website and **registration is open for all 2009 programs**. You will also continue to get e-mails about our upcoming programs. Programs cost **\$60** for members, **\$95** for non-members, and **\$30** for members in transition between employers. To register, go to the [PEBA Service Center](#), or email [peba@peba.org](mailto:peba@peba.org).

**We will be offering a discount program in 2009 for members who attend multiple programs – see below for more details!**

## Benefits Programs

February 11	Introduction to Benefits: Experience Rating
February 24	Your 2009 Survival Kit: Managing Benefit and Retirement Issues. Challenging Times Call for Creative Solutions!
May 19	The Impact of Wellness Programs
June 9	It's all about Communication: Developing an Effective Total Rewards Communication Strategy
October 14	Incentives: Developing Strategies and Understanding Employee Behavior
December 8	Retiree Benefits

## Compensation Programs

March 11	Intro to Compensation: Job Evaluation and Sourcing
March 24	Your 2009 Survival Kit: Managing Compensation Issues: Challenging Times call for Creative Solutions!
April 2	Building a Total Rewards Strategy
May 6	Equity Compensation
September 30	Board of Directors' Compensation and the Role of the Compensation Committee
November 18	Deferred Compensation

## Retirement Programs

April 7	DC Plan Design
June 12	Understanding Changes to the 5500- Program with ABC
June 23	Fiduciary Issue- Fees and Governance
September 15	Retirement Plan Issues

## Save \$30!

Come to more PEBA programs and save! As a PEBA member, if you pre-register for three PEBA programs, you'll pay only \$150 – a \$30 savings! Members can choose from any of the above courses. For questions about the discount program, please call the PEBA office at (215) 735-9435.

### Not a PEBA Member?

**Join PEBA today and you'll get a gift certificate for a free program in 2009!**

## Understanding the Impact of the Mental Health Parity Act

*(Cont. From Page 1.)*

### Out-of-Network Coverage.

If a group health plan already offers out-of-network benefits, it must offer out-of-network benefits on the same terms for mental health and substance use disorder services as it does for medical and surgical services.

### Disclosure

Group health plans must disclose the criteria for medical necessity decisions with respect to mental health or substance use disorders. In addition, the reason for any claim denial with respect to mental health or substance use disorders must be made available to a participant or beneficiary upon request.

### Exemptions

A group health plan can request an exemption from the law's requirements if the plan can establish that applying the law will result in a cost increase of more than 2% in the first year and 1% in each subsequent plan year. Determinations of increases in actual plan costs must be made and certified in a written report by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries.

Also, an employer with 50 or fewer employees and at least 2 employees (or 1 employee in the case of an employer residing in a state that permits small groups to include a single individual) is exempt from the requirements of this Act.

### How to Learn More

You can read the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 on the website for the House Committee on Financial Services.

Go to

[http://financialservices.house.gov/essa/essa\\_bill.pdf](http://financialservices.house.gov/essa/essa_bill.pdf) and scroll to pages 310-344.

*Christine Stanton is Principal at Stanton Consulting.*

# Executives Pay A Price When Employers Accept Bailout Money

(Cont. From Page 2.)

involuntary termination or a termination made in connection with any bankruptcy filing, insolvency, or receivership of the financial institution or certain related entities. An "involuntary termination" occurs when (a) an employer terminates all employment duties provided by the CEO, as long as the CEO did not explicitly or implicitly request to be relieved of employment obligations; (b) the employer fails to renew an expiring employment contract or execute a new employment contract with a willing and able CEO, or (c) the CEO voluntarily terminates employment for "good reason" due to a material negative change in the employment relationship.

Financial institutions that participate in the PSSFI are subject to similar restrictions, except that a golden parachute payment is defined, solely for purposes of the PSSFI, as any severance payment to a CEO, even if it does not exceed 3x the base amount.

**Section 162(m)(5) Deduction Limitation.** A financial institution participating in the CPP must agree contractually not to claim a tax deduction for compensation in excess of the amount deductible under new Section 162(m)(5) of the Internal Revenue Code. Under Section 162(m)(5), the limit on tax deductible compensation is reduced from \$1 million to \$500,000 for participating financial institutions, and, significantly, the otherwise applicable exceptions for commissions, performance-based compensation, and executive compensation derived from existing binding contracts are eliminated. "Covered executives" for purposes of Section 162(m)(5) are the CEO, the CFO, and the three other most highly compensated employees for the relevant tax year, determined using the shareholder disclosure rules for compensation under the Securities Exchange Act of 1934, as

amended (the Regulation S-K Item 402(a) referred to earlier).

The new deduction limitation will apply to any taxable year in which the Treasury holds an equity or debt position in the financial institution. Section 162(m)(5) also applies to any deferred executive compensation earned by a covered executive while the financial institution participates in the CPP, until such compensation is completely paid.

## Conclusion.

Many in Washington, DC and around the US argued that the EESA should impose outright caps on executive compensation for companies that receive federal bailout money. The EESA executive compensation restrictions do not go that far. However, they do require compensation committees of participating financial institutions to take the new restrictions into account in designing and evaluating executive compensation arrangements. If your employer has received or expects to receive bailout funds, the company will need to take action now to comply with the EESA requirements. Such actions will include the review and determinations discussed above, as well as applicable amendments to existing agreements to reduce compensation benefits in accordance with the EESA limitations.

*Brian M. Pinheiro is partner-in-charge of the Employee Benefits and Executive Compensation Group, and*

*Mary J. Mullany is a partner in the Business and Finance Department at Ballard Spahr Andrews & Ingersoll, LLP.*

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# Use Webtools To Make Your Job Search Easier

By Christine M. Gradel

Looking for a new job in this scary economy? It normally takes months to land a new job and, with the jobless rate at a 15-year high, the search is going to take longer. Here are some tips and resources to make your journey easier.

**First, maintain your PEBA membership.** PEBA has an interim individual membership costing just \$30 for times when you are in transition and not covered under your employer's membership. This will keep you connected to the network, resources, and educational programs. Using the PEBA Job Board to search is free, but it's a whole new "E" world and there are many more internet recruiting and job posting services. Most large employers have their employment application process on-line and you will need to attach your resume. Although you may be tempted to use your current work e-mail address — don't. Set up another one for free that will give you access away from your current workplace; e.g. Gmail, Juno, or Yahoo.

**Second, update your resume now.** Resumes, cover letters, and profiles take more time than you think. Get organized and update your resume and references now. If you received outplacement services, use their expertise. If not, consider getting professional input or use the resources available on career

websites. You can also review posted resumes to get ideas on formatting and wording. A "profile" is a marketing tool to give contacts in networking situations. This one-page document tells who you are and what type of work and industries you are pursuing. Consider getting a personal business card as well.

**Third, explore job search agents.** Sign up to receive e-mails and job alerts. Sometimes, the same job will be posted with different services, but employers often have their favorites and many services are industry, profession, or job-type specific. On many of these sites, you can set up more than one search agent and you don't have to sign up if you're just browsing. Here is a list to get you started.

**Indeed** – [www.indeed.com](http://www.indeed.com) has a radically different approach. With one simple search, you have free access to millions of employment opportunities from thousands of websites, including job listings from major job boards, newspapers, associations, and company career pages.

**Society for Human Resource Management (SHRM)**

<http://jobs.shrm.org>

**International Foundation of Employee Benefit Plans**

[www.ifebp.org/Resources/Jobs](http://www.ifebp.org/Resources/Jobs)

**World at Work**

<http://careers.worldatwork.org/search.cfm>

allows you to search jobs, create a job agent, and post your resume.

**Chronicle of Higher Education**

<http://chronicle.com/jobs>

**Career Builder**

<http://jobs.careerbuilder.com>

**Monster**

<http://www.monster.com>

**Non-Profit Times**

<http://www.nptimes.com/careers.htm>

*l* is a business publication for non-profit management.

**USAJOBS**

[www.usajobs.gov](http://www.usajobs.gov)

is the official job site of the US Federal Government.

**JobCircle.com**

<http://jobcircle.com/index.html>

is an independently owned and operated job board for the Mid-Atlantic region, connecting employers and job seekers.

**HR and Benefits Staffing Companies**

You may want to explore specific staffing companies for jobs. Some provide staffing solutions and placement for human resource and benefits professionals while others focus on finance, accounting, legal, technology, and marketing professionals. To locate a staffing company or determine if a job posting is from a staffing company, check out

**The American Staffing Association**

<http://www.americanstaffing.net/jobseekers/index.cfm>

They promote legal, ethical, and professional practices for the \$91 billion US staffing industry, 85% of which belongs to ASA.

Your job search and career goals are unique and times are tough. We hope these new resources will help you land your next job!

# Defined Contribution Fees – Considerations For Plan Sponsors And Fiduciaries

By Phil Zimmerman, CFP®

## Regulators, lawmakers and participants are pressing for greater “fee transparency” as a means of ensuring fairness.

What was considered “free” at the inception of the mutual fund trend has changed to “free to the employer.” Participants are paying virtually all plan expenses, often without realizing it, and participants in the same plan may be paying different fees inequitably. Although widely used, these approaches may be changing because of a move to greater fee transparency. Sponsors must decide how to pay plan fees, have a rigorous governance process in place to deal with these issues, and devise a tool to explain their decision process to employees. The best tool for plan sponsors to address their fiduciary duties regarding fair and equitable fees is a set of fee policy statements governing fee decisions that can be shared with employees and other interested parties to explain the rationale for the fee decisions.

## The Move to Greater ‘Fee Transparency’

The DOL has recently taken steps to increase the “transparency” of fees associated with 401(k), defined benefit, and health plans, in the belief that better information will lead to better understanding and better decisions. In the 401(k) arena, the DOL’s transparency initiative includes three provisions, not all of which are final.

1. Plan sponsors are now required to disclose all fees paid directly or indirectly to service providers,

including fee-sharing arrangements and any other “implicit” costs, on a revised Schedule C, which is part of the annual Form 5500. The final rule was approved in November, 2007 and is in effect for plan years beginning on or after January 1, 2009.

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### *Considering investment and service fees and informing participants is a fiduciary duty.*

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2. Plan sponsors and service providers would be required to enter into a written contract providing detailed disclosures of direct and indirect fees (including fee-sharing) in order to be considered “reasonable” and otherwise meet the requirements of the exemption from the prohibited transaction provisions of ERISA 408(b)(2). This would allow plan sponsors to make informed decisions on the reasonableness of fees before they enter into the agreement.
3. Plan sponsors would be required to disclose to participants the fees paid by the plan. Failure to do so could jeopardize the sponsor’s ERISA 404(c) protection. A proposed rule outlining this requirement in more detail has not yet been issued.

## Tools to assist the plan sponsor

The DOL’s Fee Disclosure Worksheet at <http://www.dol.gov/ebsa/pdf/401kfeem.pdf> is a good way to identify if your plan is paying any additional asset-based wrap fees, or if the mutual funds are subject to any back-end or front-end fees that may be charged to participants at sale or redemption of the fund.

Cautioning that “the service provider offering the lowest cost services is not necessarily the best choice for your plan,” the DOL continues its initiatives to help plan sponsors compare competing service providers’ investment product fees and plan administrative charges. The fee disclosure information breaks down four ways fees are assessed, though fees can be calculated using one or a combination of methods and can be one-time or ongoing:

- **Asset-based**, usually recorded in percentages or basis points.
- **Per-person**, based on eligible employees or actual plan participants.
- **Transaction-based**, based on the execution of a plan service or transaction.
- **Flat-rate, fixed** charges not based on plan size.

By considering cost when choosing plan investment options and service providers, plan fiduciaries can help meet their obligation under ERISA to act solely in the interests of plan participants and beneficiaries.

*Phil Zimmerman, CFP® is AVP and Wealth Management Advisor at Merrill Lynch.*

# Thanks To You, We're Growing!!

Have you told anyone about PEBA lately?  
We welcome the following companies who joined in recent months:

## **Delaware Valley College** *(Juris Peice, Director, Business and Industry, Continuing Education)*

Delaware Valley College is a private, co-ed, four-year college in Bucks County. Founded in 1896 as the National Farm School, they became Delaware Valley College in 1989, and now enroll 2,000 students in their day, evening, and weekend degree programs and over 200 students in their MBA and M.Ed programs.

## **OmPay** *(Paul DeJoe, Business Development Director)*

Established in 2001, OmPay, LLC, provides a convenient, cashless, fee-collection solution for the parking and public transportation sectors and is revolutionizing the way consumers pay for parking lots and garages, on-street parking meters, taxis, and public transportation.

## **Shire Pharmaceuticals** *(Rebecca Hazelton, Compensation Director)*

Shire Pharmaceuticals has been a leader in specialty biopharmaceuticals for over 20 years, helping people with life-altering conditions lead better lives. With broad direct and indirect distribution networks from the US to Asia and Australia, Shire's 2007 revenue growth rate was 36%.

## **Nemours** *(Charla Bennett, Compensation Analyst)*

One of the nation's largest healthcare systems for children, Nemours has facilities in Delaware and Florida with over 4,100 professionals, including 420 specialty physicians and surgeons. Their multi-state health professionals share knowledge via an extensive online network and also provide health education for children.

## **Arthur J. Gallagher** *(Marc Gutstein, Account Executive)*

Arthur J. Gallagher, founded in Chicago in 1927, provides a full range of property/casualty and employee benefits products and services to clients of all sizes. With over 250 offices in nine countries, their extensive client partnerships and long-term planning have made them the fourth largest broker in the world and one of the Platinum 400 Best Big Business Companies in America.

## **The Marshall Financial Group** *(William G. Love, Certified Financial Planner)*

The Certified Financial Planners at the Marshall Financial Group, located in Doylestown, will analyze a client's current financial situation, help identify and prioritize short and long-term goals, and tailor a plan to increase the client's financial security, independence, and peace of mind.

## **Polysciences, Inc.** *(Jennifer L. Tenfelde, HR Manager)*

Founded in 1961, Polysciences specializes in making new chemical materials for emerging applications. They manufacture over 3,000 products in three categories: laboratory products, custom synthesis, and contract manufacturing and formulation. With corporate headquarters in Warrington and European headquarters in Germany, their products are available throughout the world via their network of international distributors.

## **Precyse Solutions** *(Mark L. Rippel, Manager, Benefits, Compensation & HRIS)*

Precyse Solutions is a national provider of Health Information Management (HIM) services and technologies. Health networks, hospitals, and physician groups utilize their services to solve a wide range of business issues related to physician satisfaction, quality of care, revenue cycle management, compliance, and electronic medical record (EMR) readiness. Headquartered in Wayne, they also have a divisional operations center outside Atlanta.

## **Principal Financial Group** *(Gerard T. Quinn, VP of Sales)*

The Principal is a leading global financial company offering businesses, individuals, and institutional clients a wide range of financial products and services, including retirement solutions, life and health insurance, wellness programs, and investment and banking products. With 15,000 employees, 15 million customers, and \$145 billion in managed assets, the Principal is a Fortune 500 company and one of Fortune's 100 Best Companies to Work For.

## **Gamesa** *(Jessica N. Schreiner, Benefit Manager)*

Gamesa specializes in the design, manufacture, distribution, and installation of sustainable energy solutions, primarily wind power. As one of the main wind turbine manufacturers worldwide and the market leader in Spain, Gamesa operates in 20 countries on four continents. Their impact has been substantial, preventing the emission of an estimated 20.6 million tons of carbon dioxide into the atmosphere every year.

## **Beacon Worklife Connections** *(Jim Wallerstein, Business Development Manager)*

Beacon Worklife Connections maximizes workplace health and productivity by providing EAP, WorkLife, Intervention, and Training services based on clinical protocols developed over 30 years of real-life application. Their parent organization, The Bucks County Council on Alcoholism and Drug Dependence, is a national leader in the community-based education and treatment of substance abuse, with centers throughout the Delaware Valley.

*Renée L. Rosenfeld, CEBS, SPHR, is Assistant VP for Human Resources at Holy Family University and.*

*Daniel R. Tipton is President of Tipton Communications.*



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PEBA will be offering the following courses in the first half of 2009:

<u>Date</u>	<u>Location</u>	<u>Course</u>
March 18-20	Towers Perrin in Philadelphia	B3 Health Care and Insurance Plans-Designing and Management C2 Job Analysis, Documentation and Education
May 13-15	Mount Laurel, NJ Hosted by Conner Strong	T3 Quantitative Methods
June 17-19	Tower Perrin in Philadelphia	C17 Market Pricing-Conducting a Competitive Pay Analysis C4 Base Pay Management

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to register today!**

## peba news

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