

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

Health Savings Accounts – Employers Have Choices1

Greetings From PEBA’s New Executive Director2

Expert Knowledge Committee Is Evolving With PEBA2

Managing Salaries In A Volatile Labor Market3

Highlights Of The Final 409A Regulations4

PEBA Members Have A Sterling Day At Annual Forum7

Changes To 415 Pay Affect 401(k) Plans8

With Your Help, PEBA Continues to Grow9

Global Benefit Controls – Advantages of an Integrated Framework10

Welcome To Our New Board Members!11

Can You Top This?11

Health Savings Accounts – Employers Have Choices

By Lee Barson

Health Savings Accounts (HSAs) are a hot employee benefits topic this year. In fact, your organization may be considering adding an HSA-qualified plan for 2008. The most popular method by which employers make HSA services available to employees is through the HSA product of their selected health plan. However, to find the best value for employees, many employers are contracting directly for HSA services – “carving out” the HSA from the health plan. This approach is very common among large employers (over 3,000 employees) and can also be used by smaller employers.

How do you evaluate the available HSA options?

When employers select the high-deductible health plan (HDHP) / HSA product of their chosen health plan, they first utilize a health plan or TPA for HDHP administration and access the HSA administrator owned or selected by the health plan. Depending on your organization, this may not be the best approach. Consider carving out the HSA from the health plan in the following situations:

- **If your organization plans to offer more than one health plan.** If you carve out the HSA, all employees are offered the same HSA product regardless of health plan, and communications, implementation and administration are all simplified.
- **If your organization changes health plans.** Your HSA product will not be affected if it has been carved out from the health plans.

- **If your organization wants a customized HSA product.** If you are a larger employer, carving out the HSA allows you to customize or co-brand many of the HSA’s features. This option is generally not available to employers using their health plan’s HSA product.

Even if none of these situations apply to your organization, you may want to compare the features of your health plan’s HSA product against other HSA products in the marketplace. Decide which features are most important to your organization and determine which HSA product best meets your needs.

Both large and small employers can carve out the HSA from their health plan.

Which HSA features do employers most often compare when selecting a product?

HSA Administrator Experience

Over 1,000 banks, credit unions, and other firms are now offering HSAs. Since most have very little HSA experience, be very cautious when selecting an HSA administrator.

You can measure an HSA administrator’s experience in many ways, including:

- Number of accounts administered
- Number of employer implementations

Continued on Page 6.

Greetings From PEBA's New Executive Director

For those of you whom I haven't had the opportunity to meet, my name is Susan DeMinico and I'm the new Executive Director of PEBA. I'm thrilled to be working with such a wonderful group of people dedicated to PEBA's mission. To tell you a little bit about myself, I worked for the Princeton Review, a national test preparation company, for the past seven years, most recently as the Executive Director of the Philadelphia branch. I'm working toward my Master's Degree in business administration at Temple University. I was drawn to taking this position at PEBA for one main reason: its members.

As I've said many times in the past few months, the commitment of the membership to the goals of the organization – education, professional development and networking – are the soul of PEBA. Along with the Board of Directors and the nine committees, I strive to live up to these goals and add value to our members' professional lives.

I'd like to share with you some of the projects and ideas that I'll be working on over the next several months. My first priority is to strengthen our ties to other organizations in the benefits and compensation community. Our initial step is partnering with NAAHR, the National Association for African Americans in Human Resources. I'll be working with their president, Greg Deshields, to partner on programs and educational events that will benefit both groups. We'll also reach out to the community by targeting universities that offer Master's Degree programs in Human Resources. Because these students are future PEBA members, it's my goal to introduce PEBA to them early in their educational careers. I'll be speaking about PEBA during the fall semester at Temple University, and hope to add many other universities to the list.

My second priority is to make sure the members of the PEBA community are connected to one another. We accomplish this in many ways: by offering interesting

morning educational programs, a fabulous yearly forum, and a lovely evening event every October (mark October 18th on your calendar – a "Save the Date" will be hitting your mailboxes shortly). But we're going to go above and beyond that! We're going to try hosting a networking night to connect the PEBA Board of Directors, the committees, and the general membership. The networking night will be the perfect opportunity for you to learn about PEBA, meet your peers, and make some great professional contacts. Watch your in-box for an e-vite.

My third priority is to help build an organization that members want to be part of. I've got many ideas about the direction of PEBA, but I'd love to hear your feedback as well. Tell me what you think and how you can help build a stronger PEBA. Pick up the phone and call me, or e-mail me at deminico@peba.org. I'm waiting to hear from you!

Expert Knowledge Committee Is Evolving With PEBA

By Christopher J. Marren

As the experts say, the only constant is change. As an organization, PEBA and its committees are always changing.

Early in 2007, the Expert Knowledge Committee met to re-connect and discuss how we can best provide a valued resource for benefit and compensation professionals in the Delaware Valley while fostering PEBA's mission of education, information, professional development and exchange, and sharing professional expertise.

In addition to being a resource for members, we also want to encourage knowledge sharing and provide an online forum for the issues we address in our individual careers. Therefore, we decided to change our committee's name to the **PEBA Knowledge Exchange**. While we continue to be represented by professionals from multiple disciplines to ensure that all members' questions can be addressed, we want to increase member participation and encourage any member – not only those on the committee – to feel free to respond to questions.

Additionally, in order to foster a sense of community while sharing experiences, we will be including the name and organization of the individuals who pose questions and those who respond.

Susan DeMinico is working with our technology partners to redesign our website so it looks and functions more as an online forum, including a library of prior questions and answers. We believe this format will allow everyone to share their experiences, solutions, and best practices, and give members access to a "FAQ" database.

We invite members (new and old) to utilize the new **PEBA Knowledge Exchange** and share experiences with your fellow members when they post a question or seek feedback. We will keep you posted as we work on our new layout!

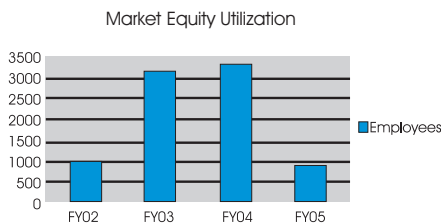
Christopher J. Marren is Account Executive at The Elite Group

Managing Salaries In A Volatile Labor Market

By Andrea Wachob Kaelin and Dennis M. Shrenk

In July 2005, we at Main Line Health (MLH) decided to implement a new compensation structure to blend market competitive and performance-based pay rates to a workforce made up of highly diverse and dynamic labor markets. Prior to implementation, market adjustments and merit increases were handled in separate processes, a common situation for hospitals and healthcare systems. In order to maintain a competitive pay position, market equity adjustments were distributed at various times throughout the year according to position, since the organization's merit pay structure was not aligned to the market. Positions in nursing, pharmacy, radiology, and therapy had historically been the most difficult to manage because market pay for these positions increased rapidly, forcing pay rates to outgrow their existing salary structure.

Our organization sought to eliminate the time-consuming and costly process (an average of 40 hours per department) of delivering market equity adjustments to positions with rapid pay growth. Between 2002 and 2005, an average of 36 high incumbent jobs per year were adjusted, with an average management cost of \$8,750 per market equity adjustment (\$300,000 per year) across the health system. The chart below shows the number of employees receiving market equity adjustments during this period.



MLH also needed to address the issue that the current structure was not functioning as originally designed. A growing number of incumbents in market critical jobs (for example, 45 staff nurses)

had outgrown their pay grade.

To begin the redesign process, we researched best practices in compensation administration. We then created new structures using a market-defined approach to salary management, modeled using our pay philosophy, and established labor markets based on position. We broke jobs into 12 functional job families and selected benchmark positions based on incumbent levels and availability of external survey data, creating four market-driven salary plans for the 51 jobs that employ over half of our workforce.

Additionally, we needed to automate the processing and storage of market data, which had previously been kept on spreadsheets. We purchased a software system to store our salary surveys and enable us to create market composites for each position and update the composites as surveys are updated. The system has some added benefits such as structure analysis tools and reporting, all of which had previously been manual processes.

Manager education was a key component in the implementation of the new compensation structure. An education program outlining the changes was presented to HR Managers and Directors in a train-the-trainer format. Site HR managers then trained their department managers and executives. A four-hour "Nuts and Bolts of Compensation" management training class was offered to supplement the targeted training, and is also normally available in fall and spring for new managers.

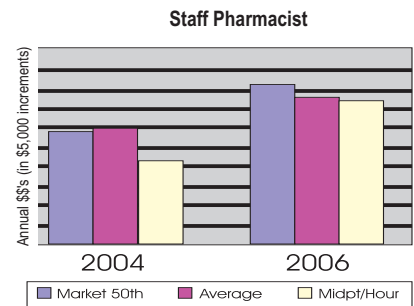
In December 2006, we surveyed department managers, who were very pleased with the changes in the compensation structure.

- Over 80% consider the new system an improvement
- Over 70% are satisfied with the new structure
- Over 60% believe it helps recruit and retain key talent

MLH also worked with Watson

Wyatt, a global HR consulting firm, to have several key positions externally evaluated for market competitiveness. The findings showed we had accomplished "nearly perfect" market pricing for the jobs evaluated, including Staff Nurse, Manager of Patient Care, Staff Pharmacist, Respiratory Therapist, Radiologic Technician, and Physical Therapist. On average, we were at 0.1% below the market median (a competitive compensation range is generally within 10% above or below the market).

An analysis of our Staff Pharmacist position (headcount = 43) helps illustrate the advantages of the new compensation structure. In 2004, the market median, our average salary, and the range midpoint were not well aligned (there were 12% and 13% differences between the range midpoint and the market median and average salary respectively). By 2006, this difference had been reduced to 0% and 2% respectively. The chart below shows the change in dollar value of the market median (50th percentile), our average salary, and our compensation range midpoint for Staff Pharmacists.



Closely aligning the midpoint of the salary grade with the market median allows our organization to be more responsive to market, thus eliminating the costly and time-consuming equity process. Larger merit budgets for market competitive positions also contribute to eliminating equities, allowing management to use the new

Continued on Page 6.

Highlights Of The Final 409A Regulations

By Amy Pocino Kelly, Esq.

On April 10, 2007, the Treasury Department issued final regulations under Section 409A of the Internal Revenue Code of 1986, as amended. This article highlights certain provisions of the final regulations.

Introduction

The final regulations incorporate and expand on guidance provided under Notice 2005-1 and the proposed regulations previously issued under Section 409A in September 2005. The final regulations are generally effective January 1, 2008, but may be relied upon now, if desired. Employers may also rely on the proposed regulations, IRS Notices, and good faith interpretations of the statute prior to January 1, 2008. Documentary compliance with the final regulations is required no later than December 31, 2007 and, at least at the present time, the IRS has not indicated that the deadline will be extended.

Plans and arrangements that should be evaluated for Section 409A compliance include the following:

- deferred compensation plans including traditional deferral plans, wrap plans (i.e., plans linked to qualified retirement plans), and supplemental executive retirement plans (i.e., plans that provide an employer funded benefit);
- severance plans and agreements (including severance provisions in employment and change of control agreements, benefit continuation following termination of employment, reimbursement of certain expenses following termination of employment, and tax gross-ups);
- equity arrangements, particularly for privately-held companies;
- transactions with earnouts or escrows or where transaction bonuses are being paid;
- certain foreign plans and arrangements; and
- split-dollar arrangements. Plan sponsors should inventory their

arrangements and consider design alternatives to bring arrangements into compliance with 409A as soon as possible. Many of the rules under 409A are complicated and will require careful consideration by plan sponsors in terms of plan structure and compliance.

Highlights

1. The existing transition guidance continues to apply through the end of 2007 and employees may continue to amend payment elections (for payments not otherwise payable in 2007) by December 31, 2007.

Section 409A affects many arrangements not considered deferred compensation – equity arrangements, employment agreements, severance plans, bonus plans, and others.

2. With respect to equity compensation, the final regulations provide helpful guidance permitting the extension of the post-termination exercise period of an option or stock appreciation right (SAR) through the end of the original option term (not to exceed 10 years) without violating Section 409A. In addition, underwater options (i.e. options with exercise prices higher than the market price of the shares) and SARs can be extended and will be treated as a new grant. The final regulations also clarify that any common stock of a service recipient company (i.e. a company that uses leased or contract workers) or its parent or subsidiary in the controlled group may be used for a stock option or SAR, provided that the common stock does not include payment preferences (i.e. the right to receive a specific value for the stock), other than a liquidation preference. For this purpose, the service recipient company can include parent entities where there is as little as 20% ownership

interest if there is a legitimate (non-tax-related) business reason to do so.

3. The regulations continue (with slight modification) the three safe harbors presumed reasonable with respect to determining fair market value of stock of privately held companies:

- Independent appraisal;
- Section 83 non-lapse formula (i.e. considering only restrictions that will not lapse);
- Valuation by a qualified person for a start-up company.

It will be very important for privately held companies to consider the impact of 409A on how they determine fair market value for purposes of setting the exercise prices and base amounts of nonqualified options and SARs, respectively.

4. The regulations continue to exclude from Section 409A payments made within 2½ months of the close of the year in which the payments are no longer subject to a substantial risk of forfeiture under the so-called “short-term deferral exception.” If a plan intends to rely on the short-term deferral exception for exception from 409A, the terms of the plan must provide for payment within the short-term deferral period. This comes up particularly in the context of annual bonus plans, and care should be taken to structure the payment provisions appropriately for purposes of Section 409A.

5. The regulations clarify the exception for severance plans that provide for payments in the event of involuntary termination (or window programs). Specifically, the final regulations clarify that the exception applies to the extent that severance pay does not exceed 2 times pay (up to 2 times the 401(a)(17) limit – currently \$225,000 x 2 = \$450,000). Separation pay up to the limit is excepted, with amounts over the limit subject to Section 409A (unless another exception applies).

6. The six-month delay rule still applies to key employees, but it is possible to minimize the impact of the six-month delay (where the agreement provides severance only on an

“involuntary termination” and does not provide for the payment of severance upon the occurrence of a non-objective good reason resignation [described below] or walk-rights or other voluntary resignation) by properly structuring the separation or employment agreement to make certain payments within the short-term deferral rule or pursuant to the separation pay exception described above.

7. Separation pay plans and agreements can contain certain “good reason” provisions without adversely affecting ability to use the separation pay exception or the short-term deferral exception to 409A. The regulations define “good reason” under a facts and circumstances test and include a safe harbor for payments meeting certain criteria. Under the good reason safe harbor, payments triggered by material diminution in duties, compensation or authority, where separation from service occurs no later than two years following the good reason event and the employer has the opportunity to cure the good reason condition after it receives notice of the condition from the employee, will be treated as an involuntary termination for purposes of Section 409A.

8. With respect to reimbursements, the final regulations except from 409A reimbursed business expenses, outplacement expenses, and moving expenses, if the expenses are incurred by the end of the second year following the year in which the separation from service occurs and are paid by the end of the third year. In addition, reimbursement of medical expenses can continue through the COBRA continuation period and will be exempt from 409A. Reimbursements of medical expenses after this period are subject to 409A and must be structured in a manner that complies with 409A. There is also an exception for a reimbursement amount up to the 402(g) limit (currently \$15,500). Other reimbursements and in-kind benefits must comply with 409A.

9. Tax gross-ups will be treated as paid at a specified time or on a fixed schedule if the plan provides that payment will be made (and the payment is made) by the end of the taxable year next following the taxable year in which the taxes are paid.

10. Plan sponsors have more flexibility in determining whether there has been a separation from service; however, there is no exception for mere “payroll continuation.” The final regulations treat employees and independent contractors as subject to the same rules. Under the final regulations, a separation from service occurs where the level of services is reduced to no more than 20% of the services provided during the preceding 36 months. The regulations allow a plan to define a permanent reduction in services (at least 50%) as a separation from service for purposes of making distributions from a nonqualified deferred compensation plan. In the context of an asset sale, the regulations permit an employee whose employer is no longer part of the controlled group but who continues to provide the same services to be treated as having not separated from service (“same-desk rule”).

*Inventory deferred comp plans now
to ensure 409A compliance by
December 31, 2007.*

11. The final regulations provide additional guidance relating to the application of Section 409A to (1) nonqualified plans “linked” to qualified plans and (2) nonresident aliens and foreign deferred compensation plans. The final regulations also expand the types of plans (there are now 9 plan types) subject to the plan aggregation rules (reducing the number of plans affected if plan aggregation is required).

12. Simultaneously with the issuance of final regulations, the IRS issued Notice 2007-34 which provides guidance regarding the application of Section 409A to split-dollar arrangements. In general, Notice 2007-34 provides that split dollar arrangements subject to 409A may be modified to comply with 409A without having the modification treated as a “material modification” which causes the arrangement to be subject to the final split-dollar regulations. The notice also provides guidance on how 409A may apply to a split-dollar arrangement.

13. The final regulations provide no further guidance on income

inclusion, reporting, and withholding; however, future guidance is expected.

Next Steps

The final regulations clarify that nonqualified plans must be in writing and reflect the requirements of Section 409A. Plan documents must include appropriate 409A terms and, at a minimum, written documents must include the amount to be paid, payment schedule, payment triggering events, and the conditions for elections under the plan. If the plan sponsor is a public company, the plan must include the six-month delay requirement (and must describe specifically how key employees are determined). Plan sponsors may not rely on general “savings clauses” in documents.

All plans and arrangements providing deferred compensation must be amended to comply with Section 409A by December 31, 2007. Plan sponsors should inventory their arrangements and consider design alternatives to bring arrangements into compliance with 409A immediately in order to meet the December 31, 2007 deadline.

Amy Pocino Kelly, Esq. is an Associate at Morgan Lewis.

WANTED: WRITERS

**PEBA News welcomes
new contributors with
new ideas!**

**If you enjoy writing and would
like your own by-line, please
contact Arleen Barisa,
Communications Committee
Chair, at
Arleen.Barisa@uphs.upenn.edu**

Health Savings Accounts – *Employers Have Choices*

(Continued from Page 1.)

- References
- Commitment to HSA marketplace

Fees

From both an accountholder and employer perspective, fees are often the primary reason for selecting an HSA administrator. Consider the following fees:

- Accountholder set-up
- Monthly account maintenance
- Waiver of fees upon achieving pre-set account balance
- Transaction fees
- Investment account fees including sales loads and monthly charges
- Minimum balance or minimum deposit requirements

Accountholder Customer Service

Employers often feel very strongly about the quality of customer service. Consider these questions:

- Is the service center dedicated to HSAs or is it a generic banking center?
- Can the service center's help text be customized for your organization?
- What performance metrics does the service center use?
- Is the service center outsourced? If so, is it outside the United States?
- What self-service tools are available (web or interactive voice response)?

Employer Services

Services provided to the employer can be critical to a successful HSA implementation. Consider the following:

- Communications capabilities and support
- Implementation resources
- Ongoing resources after implementation
- Training
- Reporting capabilities

Access to Funds

How accountholders can access their HSA funds can significantly affect the HSA's success. Options include:

- Debit card
- Checkbook
- Various claims processes

Some HSA administrators may charge for additional options.

Accountholder Communications

For many accountholders, the printed communications received from their HSA administrator is their only HSA contact. Consider the following:

- Are statements provided to accountholders? How often? By mail, electronically, or both?
- Can printed communications be customized or co-branded for the employer?
- Does the HSA administrator attempt to cross-sell other services to your employees?

Investments

As HSA balances grow, the investment process becomes a more important part of the HSA product. Consider these items when reviewing the investment process:

- Investment options
- Thresholds
- Fees
- Liquidity
- Integration with HSA transactional accounts

Payroll Interface

HSA funding methods can vary greatly among HSA products. Make sure the methods will meet your organization's needs. Ask these questions:

- What funding methods are available to employers and employees?
- Are there any restrictions on the timing of employer contributions?
- What reconciliation tools are available?

This list of considerations may seem daunting. However, the key is to focus on those factors that are important to **your** organization. The savings and workforce satisfaction resulting from a successfully implemented HDHP/HSA program will make your research efforts worthwhile.

Lee Barson, CEBS is a Director of the ACS/Mellon HSA and MSA Solutions

Managing Salaries In A Volatile Labor Market

(Continued from Page 3.)

structure as a tool to help make salary decisions.

Greater alignment also prevents employees' rates from increasing past the grade maximum. Under our organization's new compensation structure, all of our positions fall within their assigned salary grade.

Sources:

MSA/ Clark Consulting. (2006) 2006 Magnet Hospitals Survey of Nursing Pay Practices.

Risher, H. (2003). Rethinking the Framework of Managing Salaries. *WorldatWork Journal*, 12(3).

Andrea Wachob Kaelin is Director of Compensation and Dennis M. Shrenk is Manager of Compensation at Main Line Health System.

PEBA Members Have A Sterling Day At Annual Forum

By Cheryl Griest and Renée L. Rosenfeld, CEBS, SPHR

Over 175 attendees and 40 vendors turned out for PEBA's 25th Annual Forum on April 19th at the Hilton Philadelphia City Avenue. For a quarter century, the Forum has provided an opportunity to share professional experiences, explore benefit and compensation trends, establish new business relationships, view the latest products and services with experts, and reunite with old friends.

Participants enjoyed a heart-healthy breakfast and a new-member-welcome followed by breakout presentations on a variety of timely topics; a thought-provoking keynote address by CIGNA CEO, **H. Edward Hanway**; a luscious lunch; and time throughout the day to explore over 40 exhibitor booths. The Forum ended with a scrumptious dessert buffet and the chance to win an array of chic prizes, ranging from golf gear to a spa day and from sporting event tickets to ipods. Congratulations to John Kaufman (Consultant with Lynal Benefits LLC), winner of the grand-prize, a \$500 American Express gift certificate!

George Weston Bakeries' **Michelle Bruno**, Director of Benefits, shared her thoughts on the Forum: "... I've been a member for almost eight years and attend the Forum almost every year. It's a good opportunity to hear what other

companies are doing. Each year there is at least one session that deals with either one of our current or future initiatives. I attended the session on health fairs which was particularly helpful as we are ... in the process of formulating a wellness strategy for our company and are considering health fairs as part of that strategy. We also implemented a CDHP Plan in 2006 and the session on Consumerism presented some interesting information."

Carebridge Corporation's **Kate Hayes**, Vice President, Market Response Systems, noted: "... Carebridge has been a PEBA member and exhibitor for almost two decades. Each year, the exchange of information in this single venue serves as a powerful opportunity for Human Resource professionals to expand knowledge and to share expertise in benefit trends. As a regular exhibitor, Carebridge EAP and Work-Life Services remains pleased to be part of such a dynamic program where we can meet new organizations and see many current customers.... The PEBA Forum is an excellent educational annual event, and we look forward to returning next year."

This year's Forum sponsors included Aon Consulting, Aetna, Buck Consulting, Carebridge, CIGNA,

Commerce Banc Insurance Services, Corporate Synergies, Gallagher Belmont, The Graham Company, Hay Group, Model Consulting, and Trion Consulting. In addition, as an approved provider of HRCI recertification credits and an accredited provider of PA Continuing Legal Education, PEBA was able to offer attendees continuing education credits for certain sessions.

Planning, Educating, Building and Achieving – according to participants, the mission of this year's Forum was readily accomplished. We greatly appreciate the contributions of our members, sponsors and exhibitors, and offer congratulations to PEBA's new Executive Director, **Susan DeMinico**; to the Forum Committee headed by Co-chairs **Tracy Duffield** (Model Consulting) and **Ron Seifert** (Hay Group); and to PEBA staff members **Roz Coleman** and **Joy Wilson** for making this Silver Anniversary Forum Philadelphia's premier compensation and benefits event.

Cheryl Griest is Director of Benefits at AAA Mid-Atlantic, and Renée L. Rosenfeld, CEBS, SPHR, is Assistant VP for Human Resources at Holy Family University.



J. Bowers, PEBA President



T. Duffield and R. Coleman register
T. Burkholz (C&D Technologies)



From left: C. Bradley and K. McKeever
(BAS) and D. Camp (Kistler-Tiffany)



K. Dolan and E. Dombkowski
(Buck Consultants)



V. Bowden and J. Gericke (Watson Wyatt)

FREE SHORE HOUSE!



Now That We Have Your Attention, We'll Tell You How Changes To 415 Pay Affect All 401 (k) Plans

By Thomas J. Finnegan, FCA

When you're a benefits manager, the fun never ends. It seems that even the most innocuous law changes and IRS regulations wind up having some impact on your benefit plans. Usually, they send you scrambling to learn about the change, evaluate how the change affects your benefit plans, and ensure that your plans are adapted for compliance in a timely manner. Recently, the IRS has acted to make sure you have something to fill your days this summer and fall

In April 2007, the IRS issued final regulations under Code Section 415, which involves the maximum contributions to defined contribution plans and the maximum benefits allowed under defined benefit plans. For most employers, Section 415 is not usually a big deal. While changes in this area may affect the allocation of benefits between qualified and nonqualified plans, they normally have no impact on general plan operations and benefit amounts for typical plan participants.

This change, however, is quite a bit different, since Section 415 also contains the primary definition of compensation for retirement plan purposes. Under the new regulations, the Section 415(c)(3) definition of compensation excludes some items currently included on Form W-2. In addition, the 401(k) regulations are amended to provide that salary deferrals cannot be made from pay which is not part of 415(c)(3) pay. Specifically, the definition has changed as it relates to post-employment compensation. This change will require

significant alterations in the way most 401(k) plans operate.

Beginning with the first limitation year after June 30, 2007 (generally January 1, 2008 for calendar year plans), "compensation" for 401(k) and 415 purposes must generally exclude all amounts paid after termination of employment. Exceptions are made for compensation paid by the later of 2.5 months after termination of employment or the end of the limitation year which contained the employee's termination, but only for the following types of pay:

- **Regular Pay** – Amounts for time worked in the final pay period, bonuses, commissions, and other payments for services actually rendered that would have been paid regardless of the termination. This pay is always part of 415 pay.
- **Leave Pay** – Pay for unused sick, vacation, or other leave to which the employee would have been entitled had the employee remained in employment. Including this pay in 415 pay is optional.
- **Deferred Compensation** – Payments from a 409A plan that would have been paid at the same time to the participant and includible in the plan's definition of compensation, had the employee not terminated.
- **Military Pay** – Pay during a period of qualified military service which the employee would have received had he or

she been working for the employer.

- **Disability Pay** – Pay for total or permanent disability may be included in certain circumstances.

Note that the above definition does not include severance pay or any compensation paid as a result of, or in relation to, termination of employment. This is a crucial change, since severance pay is part of W-2 Pay. Thus, a plan that provides for salary deferrals from W-2 pay must be amended to exclude severance pay from that definition, as well as any other types of pay the employer intends to exclude from its 415 definition.

While the formal deadline for plan amendments is generally the due date for the 2008 tax return, a plan cannot be amended to reduce benefits that have already been earned. To make sure this does not happen, a plan using a W-2 definition of compensation would have to amend before any severance pay is earned or paid in 2008, thus making the effective amendment deadline December 31, 2007.

There are other sweeping ramifications of changing the definition of compensation. Discuss them with your consultant to make sure you're protected.

Thomas J. Finnegan, FCA, is Principal and Director of Plan Design and Compliance at The Savitz Organization, Inc.

With Your Help, PEBA Continues to Grow

Have you told anyone about PEBA lately?

We welcome the following member companies who joined in recent months:

The Bergen Briller Group (BBG) **(Kate Enwright, Staffing Consultant)**

BBG is a retained executive search firm specializing in HR. They work with a broad spectrum of companies from small, privately held firms to major Fortune 500 corporations.

PEPCO Holdings, Inc. (PHI) **(Kimberly Mezick, Compensation Manager)**

PHI is one of the largest energy delivery companies in the mid-Atlantic region, serving customers in DE, DC, MD, NJ and VA. They also offer wholesale generation services and retail energy projects and services.

iEmployee **(Sarah Adler, HR Director)**

A leading provider of On-Demand workforce management solutions, iEmployee offers web-hosted programs that help simplify the HR process without IT investment or overhead. SAS 70 certified, they assist clients and their auditors in addressing the requirements of Sarbanes-Oxley/SAS 70.

White and Williams LLP **(Gayle Dobkin, Benefits Administrator)**

White and Williams represents clients in civil litigation and appellate matters in state and federal courts. Their litigation practice encompasses business and employment issues, product liability, medical malpractice, toxic and mass torts, and workers' compensation.

MHNet Behavioral Health **(Jim Wallerstein, Sales Executive)**

Home of the Total Behavioral Health Solution model, MHNet Behavioral Health has been a leader in the behavioral healthcare industry for over 20 years. They provide innovative behavioral health and EAP/Work-Life services for health plans, employer groups, and public programs.

The Elite Group **(Christopher Marren, Account Executive)**

The Elite Group is an administrative service organization that provides businesses with a single source solution in the areas of benefits, payroll, and HR.

Emerson Personnel Group **(William Emerson, CEO)**

Emerson Personnel Group specializes in permanent, contract, and temporary employment opportunities in the fields of accounting/finance, HR, and administration.

Tyco Electronics **(Grace Perry, VP, Global Benefits and Compensation)**

Tyco Electronics offers a full complement of leading component brands, providing customers with a portfolio of connectors, relays and circuit breakers, active and passive fiberoptic components, wireless products, power components, resistors and inductors, motors, and myriad others across 25 product segments.

Draeger Medical Systems, Inc. **(Janice Curran, Sr. Director Compensation, Benefits & HRIS)**

Draeger Medical, a Draeger and Siemens Company, is one of the world's leading manufacturers of medical equipment. They strive to help improve the quality of patient care while supporting care process efficiency to facilitate healthcare cost savings.

Imperial Parking **(Lisa Lawrence, HR Coordinator)**

Imperial Parking operates parking facilities on behalf of property owners and asset managers under parking management agreements and by providing bankable leases.

American International Group, Inc. (AIG) **(Terry McSweeney, VP Group Foreign Benefits)**

AIG is a leading international insurance organization serving commercial, institutional, and individual customers through extensive worldwide property-casualty and life insurance networks.

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Sandoz, a Novartis company, is a world leader in generic pharmaceuticals. They develop, manufacture, and market pharmaceutical and biotechnological active ingredients and off-patent medicines.

401(k) Advisors **(Michael Falcone, Director – East Region)**

401(k) Advisors is a qualified retirement plan consulting company whose services help protect plan fiduciaries from personal and corporate financial liability while enhancing investment opportunities for plan participants.

Philadelphia Stock Exchange (PHLX) **(Theresa Clavin)**

As one of North America's primary marketplaces for the trading of stocks, equity options, index options, and currency options, the PHLX trades over 7,000 stocks, 2,500 equity options, 17 index options, and multiple currency pairs.

SMART Business Advisory & Consulting, LLC **(Christine Faris, Senior Manager)**

SMART is a diverse team of business advisory, consulting, accounting, compensation and benefits, tax, and transaction advisory professionals that offer a comprehensive foundation of business expertise and practical, informed advice.

Synthes **(Debra Maher, Director, Compensation & Benefits)**

Synthes develops, produces and markets instruments, implants, and biomaterials for the surgical fixation, correction, and regeneration of the human skeleton and its soft tissues.

Medical Diagnostic Laboratories (MDL) **(Christine Johnston, Director, Human Resources)**

MDL is an infectious disease, esoteric laboratory specializing in Polymerase Chain Reaction (PCR) technology. They serve as a reference laboratory for PCR-based testing to physicians, laboratories, hospitals, and private accounts nationwide.

The Andre Group, Inc. **(Michael McDonald, Vice President)**

The Andre Group, Inc. is a professional recruitment and search firm supported by 30 years of recruiting experience, serving the major Fortune 500 companies on a national basis.

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Since 1947, Galfand Berger attorneys have been championing the rights of individuals injured as a result of automobile accidents, defective products, unsafe equipment and machinery, workplace and construction accidents, medical malpractice, and other serious injuries or accidents.

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

Global Benefit Controls – Advantages of an Integrated Framework

By Ron Arculeo, Esq. and Rive Rutke

Global benefits spend represents a large portion of payroll costs and can range from less than 10% of National Average Pay to over 50%. Managing global benefits spend may be difficult as most organizations have taken a decentralized approach. Oftentimes, the local country manager is responsible for plan design and operation, obtaining local advisors and satisfying compliance requirements, as opposed to a headquarters management team oversight or a centralized program. Decentralization of global benefits programs also may result from benefits plans and processes being “legacy” in nature (i.e. true benchmarking of these programs occurred long ago, against an old or even inaccurate comparator group or possibly inherited during an acquisition). These legacy benefits plans may be retained for poor reasons, like employer and/or employee attitude against change.

If you find yourself with no logical response to the question of “how do your global benefits programs work and why are they structured this way,” then you’re not alone. In today’s global environment, several factors are driving companies to a better understanding of what global benefits programs they have: corporate governance issues, financial statement reporting, increasing benefits cost, tax compliance, risk management and an increased desire to align benefits programs with an organization’s overall strategy and culture. The result: many are developing a centralized global benefits management approach with adequate controls in place to monitor benefits plan operations. In the spirit of a centralized global benefit management approach, we have worked with several clients to establish a global benefit controls framework to assess that the policies and procedures initially developed remain appropriate and are being followed by an organization. A global benefit controls framework also is a safeguard against undue risk for

noncompliance penalties and local audits that plague the unsuspecting employer.

There are several steps involved in evaluating an organization’s global benefit structure, as we see it. An integrated framework for addressing global benefit controls is as follows.



Conduct a Global Benefits Inventory

A global benefits inventory is the first step in evaluating an organization’s overall global benefits structure and controls. An inventory begins with a current state assessment of benefit plans. The process to conduct an inventory typically involves documentation, questionnaires and interviewing “process owners.”

A global benefits inventory achieves the following:

- Identifies plans not currently known or potentially unrecorded.
- Provides an assessment of overall structure of plans.
- Determines if sufficient controls are in place.
- Identifies scope for risk assessment.

Assessment of Risk

For all benefit programs inventoried, an assessment of risk should be completed. A risk assessment can include mapping current processes in flow charts supported by process descriptions and analyzing those process maps and descriptions to identify risks and controls. Assessment of risk typically includes:

- Identifying current and/or proposed legislative/regulatory changes.
- Understanding what local governments are scrutinizing via audit activity.
- Understanding whether adequate internal controls are in place.

The risk assessment phase of an integrated global controls framework typically concludes with a summary of key observations and recommendations for process owners and management. For instance, if the reviewer discovers that strengthening controls for compliance and financial purposes is necessary for some processes and tasks, one recommendation might include appointing a compliance officer to monitor plan operation for compliance with plan terms and relevant law. For financial related tasks, an adequate checks and balances routine may be suggested.

Typically, management’s responses to findings and recommendations are attached in a summary report. The report typically includes:

- **Observation** – An observation identifies risk(s) and links them to possible weaknesses in the organization’s operations, financial reporting or compliance with applicable laws or regulations.
- **Control Objective** – Each observation is assigned a control objective code: Operational, Financial and Compliance.
- **Priority Codes** – Each observation is assigned a priority rating to establish its level of importance to the organization. An example of a priority rating could be high/medium/low or critical/important/minor.
- **Recommendations** – The action steps management needs to take to remedy any control weaknesses.
- **Responsibility** – Each observation is assigned to an employee within the organization for taking ownership of implementing management’s action steps.

Implementation

The implementation phase truly begins upon presentation of the summary report to management as many decisions regarding ongoing controls are discussed

during the review of summary findings.

Implementation can include management's agreement with any modifications/recommendations to a benefit plan or simply documentation of management's response. Management should commit to specific dates to implement required actions. A mechanism should also be established for regular follow-up on each issue and monitoring processes on a going forward basis.

Global Compliance

A comprehensive global benefit controls framework is reliant upon managing global compliance. Enabling adequate controls and tracking systems for all global benefit programs leads to:

- Increased global compliance.
- Reduced financial, legal and regulatory risk.
- Timely, accurate reporting.
- Greater management efficiency through centralized access to data.
- The ability to accurately measure global benefit spend.

Managing global compliance effectively and controlling costs on a global basis requires a tracking system or technology tool. Development of a tool is essential for an organization to achieve a centralized global benefit management approach, apply controls consistently, and have a system in place for future monitoring of all programs.

The framework described above related to global benefit controls also may be applied to any global compensation (i.e. cash or equity) or fringe benefits and perquisites.

For a global organization that is looking for ways to assess and monitor global benefit spending, a centralized global benefit management and controls approach should be considered. Following the suggested global benefit controls framework can create cost savings and enhance the overall success of the organization.

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Can You Top This?

Welcome to a regular feature in your PEBA Newsletter. Meant to add a lighter note and share some "war stories," these articles will show some of the more fun, or at least interesting, aspects of our jobs.

Many years ago, when our self-insured plan saw too many 35% annual increases, we asked our 2,400 full time employees to begin providing proof of dependent eligibility for anyone they wanted to cover on our medical plans. Fall and budget season and Open Enrollment ...why not add more fun to this time of year? We chose to hold a mandatory reenrollment requiring every employee to bring in marriage licenses and birth certificates....otherwise, no further coverage. We announced we would not question prior enrollments.

Although we had the support of senior management and most employees thought it was a good idea to weed out ineligible people and claims, some employees were not happy. Nasty voice- and e-mails, cursing, slamming papers, and other responses greeted us.

A long-term, always "nice guy" asked to speak to me, the Benefits Manager, in private. He said he had two children, ages 13 and 11, plus a "common-law" spouse. He said they simply didn't believe their relationship needed the formality. I explained that in this situation, common-law was not sufficient and we were adhering to strict dependent guidelines. We spoke further as I clarified the policy and benefits; he was always professional with his questions. I followed up in writing and eventually dropped his common-law spouse (and many others!) on December 31.

On February 15, this same employee walked into my office with a big grin on his face...holding a piece of paper. On Valentine's Day, they made it official and were married! He laughed, saying this prompted them to reconsider, and that it was very special that their sons were part of the wedding party. Of course, we promptly added his new wife to our plan!

Who says love and ERISA can't mix???

Now, can you top this PEBA member company's story? If you have an interesting, scary, or bizarre story to share, please e-mail Arleen Barisa, PEBA Communications Committee Chair, at Arleen.Barisa@uphs.upenn.edu. We will work with you to remove all identifying information; we promise privacy.

Welcome To Our New Board Members!

PEBA would like to announce the election of six new members to our Board of Directors who began their terms in May. Congratulations to...

Brian Dougherty

Partner
Post & Schell

Tracy Duffield

Vice President
Model Consulting

Barbara Goulart

Project Director, Compensation
Wyeth Pharmaceuticals

Allen Koski

Director, International Sales
CIGNA International

Diane Lirio

Principal
The Vanguard Group

Todd Lombardi

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PEBA-Sponsored WorldatWork 2007 Compensation & Benefits Certification Courses

PEBA is pleased to provide new options for WorldatWork programs in 2007. In addition to our traditional offering of classes and tests, PEBA is now offering **testing only** at our conveniently located downtown site — PEBA, 1528 Walnut Street, Suite 420, in Philadelphia, from 7:30 AM to 12:00 PM.

Exam Only Sessions for 2007 - *New Option*

Friday, Sept. 28	Deadline to signup Sept. 7
Friday, Oct. 26	Deadline to signup Oct. 5
Friday, Nov. 30	Deadline to signup Nov. 9
Friday, Dec. 28	Deadline to signup Dec. 7

The tests will be held provided we have at least 5 tests scheduled.
Our maximum number of attendees is 10.

peba news

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See PEBA home page for \$9.00 parking near our office!