

The Case for Legal Services and ID Theft Benefits

Few things are as disruptive for employees as legal difficulties and, with growing frequency, the aftermath of identity theft. Lost time at work, and distracted minds while on the job, also lower productivity and impact the bottom line.

While only a minority of employers currently offer broad-based legal services plans or specific ID theft protection services as voluntary benefits, the rationale for doing so can be compelling.

Legal Services

A divorce, a lawsuit, bankruptcy or other legal issues can be expensive and distracting to employees. Around 800,000 to 900,000 couples divorce each year, according to the U.S. Centers for Disease Control and Prevention, and more than a million people filed for bankruptcy during the 12-month period ending March 31, 2014—just two common reasons why employees might need access to legal assistance.

Among employers with voluntary benefit programs, offering legal services is relatively common but by no means universal, with 55 percent making this option available to employees, according to a 2013 survey of 320 large U.S. employers conducted by Towers Watson.

However, among all employers, only 21 percent offer legal assistance services, according to the Society for Human Resource Management's 2014 Employee Benefits report.

Yet, "Many employees earn around \$50,000 per year and don't have the cash flow to pay for expensive hourly legal fees," said Holley Maher, a partner with MRCT, an insurance, retirement and HR consulting firm in Clayton, Mo.

Choosing Plans

Like any benefit program, legal services come in all shapes and sizes, from simple referral services (which may be provided through an employee assistance program) to group legal plans offered through the workplace and funded via payroll deduction.

If considering a group plan, evaluate different offerings to see which will best meet employee needs such as:

- Writing a will or a living will.
- Establishing a trust.
- Resolving traffic violations.
- Creating a health care power of attorney.
- Reviewing miscellaneous legal contracts and documents.
- Handling family issues like adoption and divorce.

Beyond that, a legal services plan should have an ample number of lawyers who specialize in required services available in the geographic area where all or most employees reside.

Employers should also review what free services, if any, are offered and what services are discounted and how much. "Is the network of law firms open or closed? Are dependents eligible for the plan?" asked Maher.

ID Theft Protection

When employees have their identity stolen, criminals can use that data to open fraudulent bank and credit card accounts, obtain government benefits, and apply for employment. Here are some numbers to consider:

- Nearly 75 percent of ID theft victims are between the ages of 20 and 59, the prime working years.

- ID theft is also on the rise. The Federal Trade Commission's Consumer Sentinel database reports that identity theft complaints have grown from 86,250 in 2001 to 290,056 in 2013. This jibes with U.S. census data that indicates that more than 250,000 people are victims of identity theft each year.
- About 25 percent of large U.S. employers offered ID theft protection in 2013, according to Towers Watson.

Identity theft may not require the services of a lawyer, but it can still take numerous hours for an employee to straighten out the situation. "As the use of electronic medical records and e-filing for taxes increases, so do the reports of identity theft," said Maher.

"The biggest reasons to offer identity theft benefits are lost productivity and employee stress, which, in turn, add to medical costs," said Heidi Rasmussen, co-owner of freshbenies, a Dallas-based employee benefits firm.

Without access to ID theft protection services, an employee could spend hours of work time trying to resolve related issues. This does not even include any general loss of productivity from an employee dealing with the stress and worry of the situation.

Moreover, Rasmussen noted, the longer an employee doesn't realize that his or her identity has been stolen, the worse the damage becomes. "It could take hundreds of hours to resolve," she said. "It's far better if an identity theft is found early in the process, and that's the goal of a good identity theft protection program."

"Considering that the Target breach affected 35 percent of the American population and the impact of the Heartbleed [online security bug] is yet to be fully seen, this is a hot topic right now," she said.

The IRS released on Dec. 30, 2015, its Announcement 2016-02, which allows preferential tax treatment for employer-provided identity theft benefits despite the absence of a data breach. The guidance states that the value of identity protection services provided by the individual's employer can be excluded from the employee's gross income and wages, and does not need to be reported on an employee's Form W-2 or on a Form 1099-MISC. The announcement does not apply to cash provided by employers to employees in lieu of identity protection services.

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