HR COMPLIANCE LIBRARY
Ideas & Trends

JULY 6, 2016
ISSUE NO. 784

INSIDE

INTERNET FRAUD

Lessons learned from hack of ADP's computer system

ADP is the provider of payroll, tax, and benefits administration for more than 640,000 companies worldwide. The organization suffered a potentially catastrophic security breach when it was recently hit with an ID theft scam.

According to Stu Sjouwerman, Founder and CEO of KnowBe4, cyber criminals used a process called "Flowjacking," which enabled them to determine the work and data flow of ADP's internal processes. They found out that setting up a user account with the company was a two-step process. The first step involved setting up the account, which required social security numbers and other personal data, easily obtained in the underground internet economy. The second step was activating the account. ADP sends activation codes to the companies that set up accounts with them. Unfortunately, some companies are not careful with their activation codes, and wind up placing them on their website for employees to use. These codes can easily be scraped by alert hackers.

Ultimately, Sjouwerman, participating in an interview with Wolters Kluwer Law & Business, said, "The incidents occurred because the victim companies all mistakenly published sensitive ADP account information online that made those firms easy targets for tax fraudsters."

Lessons learned

Anytime an organization finds itself the victim of—or even suspects they may be the victim of—an Internet breach, Sjouwerman says the Chief Internet Security Officer (CISO) and Chief Information Officer (CIO) need to be immediately notified and involved. "Compliance requirements vary by industry but employees or those whose information has been compromised should be notified," he continued. "In addition, everyone should be required to immediately change credentials."

According to Sjouwerman, notification of an internal breach is the responsibility of the CISO and CIO whose job it is to determine who else needs to be involved and/or informed as it will affect the company's reputation and bottom line. "In the event of an external brief," says Sjouwerman, "the CISO and/or CIO will likely consult a risk manager and attorney to mitigate damage and work with IT to isolate and eradicate the breach."

Mitigating risk. "It is vital to train staff and take action to mitigate risk," emphasized Sjouwerman. "Minimally, HR should train all employees on security procedures and policy. In addition, organizations should offer a thorough security awareness training program along with an integrated simulated phishing platform that would allow employees to learn effective measure to take to avoid being social engineered."

Wolters Kluwer

Social engineering red flags. Sjouwerman provded the following 15 red flags employees should be encouraged to watch for:

1. This is an unexpected or unusual email with an embedded hyperlink or an attachment from someone I hadn't communicated with recently.
2. The sender's email address contains a suspicious domain.
3. I have no relationship and no past communication with the sender.
4. I got an email with a subject line that is irrelevant or does not match the content of the email.
5. The email message is a reply to something I never sent or requested.
6. I hover my mouse over a hyperlink that is displayed in the email message, but the link to the address is for a different web site. (Sjouwerman says "This is a big one!")
7. I received an email with a hyperlink that is a misspelling of a known web site. For instance, www.bankofarnerica.com: the "m" is really two characters—an "r" and an "n."
8. The sender included an email attachment that I was not expecting or that makes no sense in relation to the email message.
9. I see an attachment with a possibly dangerous file type. The only file type that is always safe to click on is a .TXT file.
10. I was cc'd on an email sent to one or more people, but I don't personally know the other people it was sent to.
11. I received an email that was also sent to an unusual mix of people. For example a seemingly random group of people whose last names all start with the same letter.
12. I received a "normal" email, but it was sent at an unusual time.
13. The sender is asking me to click on a link or open an attachment to avoid a negative consequence or gain something of value.
14. The email is out of the ordinary, has bad grammar, and excessive spelling errors.
15. The email is asking me to look at a compromising or embarrassing picture of myself or someone I know. ■

ADA ACCOMMODATIONS

Experts talk leave as a reasonable ADA accommodation

Leave as a reasonable accommodation under the ADA is one of the most difficult issues facing employers, HR professionals, and third party administrators. The legal contours and practical matters surrounding the issue were fleshed out in an EEOC resource document that Franczek Radelet Partner Jeff Nowak dubbed a "wake-up call" to both the employer and employee communities about what needs to be considered in contemplating such leave. The EEOC's resource document was at the heart of a June 23 webinar hosted by Nowak that featured EEOC Commissioner Chai Feldblum's take on the many questions that can arise from the myriad pieces that make up the leave-as-a-reasonable-accommodation puzzle.

The EEOC resource document. Released on May 9, 2016, the resource document, Employer-Provided Leave and the Americans with Disabilities Act, is aimed at helping educate employers and employees about workplace leave under the ADA to prevent discriminatory denials of leave. While Nowak called it a "wake-up call," he also clarified that it portends no "earthshattering change" but appears to codify what the EEOC has said before. Among other things, he said it provides critical guidance on the sort of information employers can get from employees' medical providers and the questions employers can ask employees to answer.

Elaborating further, Feldblum said the document is based on what the EEOC has said before and what the agency has litigated, not new stuff—the difference is that the information is now compiled in one "user friendly" document. The technical resource document, developed by agency staff, updates EEOC guidance issued in 2002, but as a technical resource document, it was not voted on by the Commission and does not carry the weight of official agency guidance. It merely provides additional explication of agency guid-

HR COMPLIANCE LIBRARY
Ideas & Trends

Managing Editor
Heidi J. Henson, J.D.

Contributing Editors
Deborah Hammonds, J.D.
David Stephanides, J.D.

Newsletter Design
Publishing Production & Design Services

Newsletter Layout
Sandra Foltushanskiy

HR Compliance library—Ideas & Trends (USPS 680-810)(ISSN 0745-0613), a Wolters Kluwer editorial staff publication, is published monthly by Wolters Kluwer, 4025 W. Peterson Ave., Chicago, Illinois 60646. Periodicals postage paid at Chicago, Illinois, and at additional mailing offices. POSTMASTER: SEND ADDRESS CHANGES TO HR COMPLIANCE LIBRARY—IDEAS & TRENDS, 4025 W. Peterson Ave., CHICAGO, IL 60646. Printed in U.S.A.

ance—a sort of book review of the guidance—that provides examples and is based on what the EEOC has currently said about leave as a reasonable accommodation under the ADA.

Unpaid versus paid leave. According to the EEOC, an employer *must* consider providing unpaid leave when the employee requires it due to a disability *and* it does not create an undue hardship for the employer. On the other hand, employers may choose to provide paid leave, but they must treat all employees the same, and while conditions may apply, they must be applied evenly.

After FMLA leave is exhausted. Discussing situations in which an employee has exhausted his or her FMLA leave and requests additional leave, Nowak underscored what he call "missed opportunities," such as performance issues noted even before the employee's leave began and a manager's comment that the employee was "just not himself." These are opportunities to begin the interactive process, which should be kept going while the employee is on leave, especially if the return-to-work date is unclear.

Feldblum suggested that where there is a performance issue, the employer should *not* ask whether the employee is having difficulty because of a previous impairment the employer is aware of but rather, should simply ask the employee what's going on, noting that his or her performance is not up to standard. It's up to the employee to ask for a reasonable accommodation, she said.

Both Feldblum and Nowak pointed out that when an employee requests additional leave after the expiration of FMLA leave, it should be taken as a request for a reasonable accommodation.

How often can an employer contact an employee who has been granted leave as a reasonable accommodation? While the EEOC's resource document explains that an employer *cannot* ask an employee with a fixed return date to provide periodic updates, Feldblum said that employers *can* check in and continue the interactive process, especially when FMLA leave is nearing an end. Employers cannot "hound" employees on leave because it starts to feel like retaliation, she explained.

Correspondence with employees on leave. Nowak laid out his suggestions for correspondence with employees who are on medical leave, beginning with a phone call at FMLA week 10 and then followed up by correspondence advising the employee:

- FMLA leave will be exhausted as of [date];
- Based on current information, we anticipate that you will return to work on [date];
- We want to help you in any way we reasonably can;
- If you are not able to return to work by [date], please contact me. If you believe you could return to work, but may need assistance, or if there is any other information about your return to work that you wish to call to our attention, please contact me as soon as possible;
- Before returning to work, you will be required to provide a return-to-work certification from your health care provider confirming that you are able to perform the essential duties of your position with or without a reasonable accommodation.

Nowak said that it's all about communicating that the employer cares about the employee. Feldblum added that it's also in the employer's best interest to have the employee return to work. Employers can get into trouble when they don't want the employee to return to work.

Feldblum also stressed that it's important for the employer to know the essential functions of the employee's job—armed with that information, the employer can have a much more productive conversation with the employee and determine whether the employee is able to perform those functions.

When additional leave is requested. Both Feldblum and Nowak pointed out that when an employee requests additional leave after the expiration of FMLA leave, it should be taken as a request for a reasonable accommodation. The employer should find out from the employee the reason for the leave, whether it will be for a block of time or intermittent, and when the leave period will end.

Where the employee does not provide enough information, Nowak said that employer can seek permission from the employee to contact the health care provider and ask for elaboration on the information given by the employee. Alternatively, the employer can ask the health care provider to answer questions to help understand the need for leave.

Feldblum stressed that health care providers must connect the impairment to the need for leave. The provider should also give some estimate of when the employee will be able to return to work. When the doctor does not know when the employee will be able to return to work, leave is not a reasonable accommodation because it will not permit the employee to return to work. However, this is only true in very few cases, where the doctor says he or she doesn't have a clue or "I don't know."

What questions can the employer ask? Nowak said that employers may ask for information about the following: (1) basic facts regarding the impairment (no diagnosis!); (2) the activities that the impairment limits (and to what extent); (3) how the impairment affects employee's ability to perform essential job functions, and which job functions; (4)

whether the doctor can identify any accommodations that would help the employee perform job functions; and (5) if leave is necessary, the expected date upon which the employee will be able to perform the essential job functions.

When an employee seeks additional leave, employers can also ask health care providers what amount of additional leave is needed, why additional leave is necessary, and why the initial estimate proved inaccurate.

Undue hardship. According to the EEOC resource document, the employer may also request relevant information to determine undue hardship. Is there a limit to how much leave an employer must grant? Yes, according to Feldblum—undue hardship to the employer is the limit, and it's a very individual determination. According to the EEOC resource document, in accessing undue hardship, employers may consider:

- The amount and/or length of leave required;
- The frequency of the leave;
- Whether there is any flexibility with respect to the days on which leave is taken;
- Whether the need for intermittent leave on specific dates is predictable or unpredictable;
- The impact of the employee's absence on coworkers and on whether specific job duties are being performed in an appropriate and timely manner; and
- The impact on the employer's operations and its ability to serve customers/clients appropriately and in a timely manner, which takes into account, for example, the size of the employer.

Nowak noted that the undue hardship analysis takes into account both the "impact" and "ability to serve," including significant losses in productivity because work is completed by less effective, temporary workers or last-minute substitutes, or overtired, overburdened employees working overtime, who may be slower and more susceptible to error. Lower quality and less accountability for quality, lost sales, less responsive client service and increased client dissatisfaction, and deferred projects may also be taken into account. An increased burden on management staff required to find replacement workers, readjust workflow, or readjust priorities in light of absent employees, are also factors to consider, as well as increased stress on overburdened coworkers and lower morale.

Nowak suggested that instead of focusing so much on how *many* extensions of leave an employer is required to provide under the ADA--an answer likely never to be provided by EEOC or a court, employers should focus on a robust interactive process and how the employee's leave is impacting its business operations.

Moreover, Nowak stressed that the undue hardship assessment can begin while the employee is in the FMLA leave period. At the first leave extension request, the employer can then discuss with the employee how the employee' leave is impacting the employer. The employer will be in a much better position at the second leave request to tell the employee that he or she needs to get back to work and why. Feldblum said that by the third extension request, the employer may be in a good position to say the leave is an undue hardship and give the employer only two more weeks, for example.

Nowak suggested that instead of focusing so much on how many extensions of leave an employer is required to provide under the ADA--an answer likely never to be provided by EEOC or a court, employers should focus on a robust interactive process and how the employee's leave is impacting its business operations.

Other takeaways. Among the many other points that Nowak and Chai discussed were these takeaways:

- Employers should not send employees letters stating a deadline by which the employee must return to work for full duty, 100 percent healed—there must be an individualized assessment as to whether the employee can return to work with a reasonable accommodation.
- Maximum leave policies should include a statement that if the employee is unable to return to work after he or she reaches maximum leave, the employer may grant additional leave as a reasonable accommodation, unless it would cause the employer undue hardship.
- The EEOC has never agreed with courts' decisions finding that regular attendance is an essential job function—the real question is whether modifying attendance is an undue hardship.
- If all else fails, consider reassignment to a vacant equivalent position, or a lower one if none are equivalent. While the EEOC says that the employee merely needs to be qualified for the vacant position, not the most qualified, some courts disagree.

The complimentary webinar, EEOC's New Resource on Leave as an ADA Reasonable Accommodation: A Closer Look with EEOC Commissioner Chai Feldblum, was held at EEOC headquarters. There were about 3,600 attendees, according to Nowak. ■

Source: *"Jeff Nowak and Chai Feldblum talk leave as a reasonable accommodation," was written by Pamela Wolf, J.D. and originally published in the June 23, 2016 edition of Employment Law Daily, a Wolters Kluwer Law & Business publication.*

HR QUIZ

Is changing a pregnant worker's job duties, without her request for accommodation, an adverse action under the Pregnancy Discrimination Act?

Q Issue: *Zoe, a store associate, typically spent her shift lifting and pushing heavy boxes weighing 30 pounds or more, climbing up and down ladders, and stretching to reach shelves. After she announced her pregnancy, her manager, Terrance, did not want her to take any risks and reassigned her to work solely behind the cash register. The new assignment allows Zoe to sit while working a shorter shift and prevents her from doing any lifting, pushing, stretching, or climbing. Zoe complained that making the change because she's pregnant — without her asking for a change — was an adverse action. Was it?*

A Answer: Yes. An employer violates the Pregnancy Discrimination Act (PDA) if it takes an adverse action against a pregnant employee based on concerns about her health and safety. Although an employer may require that a pregnant worker be able to perform the duties of her job, adverse employment actions (including those related to hiring, assignments, or promotion) that are based on an employer's assumptions or stereotypes about pregnant workers' attendance, schedules, physical ability to work, or commitment to their jobs are unlawful. This is true even when an employer believes it is acting in an employee's best interest. In this case, even though Terrance believed he was acting in Zoe's best interest when he reassigned her to a less demanding job, the reassignment was an adverse action that violated the PDA.

An employer may only reassign a pregnant worker based on concerns about her health or the health of her fetus if it can establish that non-pregnancy or non-fertility is a bona fide occupational qualification (BFOQ). There are very few, if any, situations where an employer is able to establish this defense.

Source: *EEOC Guidance: Questions and Answers about the Enforcement Guidance on Pregnancy Discrimination and Related Issues, reported in Employment Practices Guide, ¶5411, https://www.eeoc.gov/laws/guidance/pregnancy_qa.cfm.*

STEM STUDENT VISAS

What employers need to know about the new Optional Practical Training rule for STEM students

The Department of Homeland Security's new rule amending F-1 nonimmigrant student visa regulations for the Optional Practical Training (OPT) program for STEM (science, technology, engineering, and mathematics) students imposes new obligations on the employers of those students. The new obligations include a requirement that employers implement a formal training plan for each STEM OPT hire. This article discusses key features of the rule.

History

The U.S. Department of Homeland Security (DHS) first introduced an extension of OPT for STEM graduates in 2008. Previously, F-1 STEM students could elect to pursue 12 months of OPT in the United States after obtaining their degrees from a U.S. institution of higher education. Under the 2008 Rule, they could apply for an additional 17 months of OPT, provided the proposed employer was enrolled in and remained in good standing in the federal Electronic Employment Eligibility Verification Program (E-Verify), as determined by U.S. Citizenship and Immigration Services (USCIS). A federal district court vacated the 2008 OPT STEM Rule on procedural grounds and ordered DHS to issue compliant regulations. The court later stayed its ruling to give DHS the opportunity to issue a new rule through notice-and-comment rulemaking. Following completion of the rulemaking, the new rule was published on March 11, 2016, and took effect on May 10, 2016.

Key Provisions

The new rule:

- Increases STEM OPT employment authorization from 17 months to 24 months.
- Requires each STEM OPT student and employer to prepare and execute a formal training plan (Form I-983) that identifies learning objectives and a plan for achieving those objectives.
- Allows every F-1 student two (rather than one) STEM OPT extensions a lifetime, provided the second extension is based on a higher-level STEM degree obtained than the previous STEM degree (see below).
- Increases the types of qualifying STEM degrees.
- Limits the types of jobs to those directly related to the student's qualifying STEM degree. There must be an

employer-employee relationship between the employer and the F-1 student; employment for a staffing agency and other temporary employment agencies do not qualify. Volunteer employment also does not qualify. An F-1 student may not work concurrently for multiple employers during the STEM OPT period.

- Requires that only STEM degrees earned from a domestic campus of an accredited and certified U.S. educational institution are eligible for a STEM OPT extension.
- Provides that an F-1 student may be eligible for an extension if he or she holds a prior U.S. degree in a qualifying STEM field, provided the prior degree was earned within the preceding 10 years. The proposed training must relate directly to the STEM degree earned (the qualifying degree), not be based on a current non-STEM degree, and the F-1 student must currently be in a period of 12-month OPT based on his or her most recent U.S. degree.
- Allows an F-1 student an additional 12 months of regular OPT, plus a second 24-month STEM extension if the student earns another qualifying STEM degree that is at a higher level than the first STEM degree. The second STEM extension may not immediately follow the first STEM extension.
- Permits travel during "cap-gap" if: (1) the student still has a valid F-1 visa stamp at the time of reentry; (2) the student has a Form I-20 that reflects the cap-gap benefit that has been endorsed by his or her school with a valid travel signature; and (3) the H-1B petition filed on behalf of the F-1 student has been approved before the student travels. A student who departs the U.S. while the change-of-status application is pending abandons the application by such travel, and the "cap-gap" benefit would similarly end.
- Provides for DHS employer site visits, with notice or unannounced, where the STEM OPT student is employed. To guard against adverse impacts on U.S. workers, the rule requires the terms and conditions of a STEM job (i.e., duties, hours, and compensation) to be commensurate with those applicable to similarly situated U.S. workers.
- Creates the following reporting requirements: (1) validation every six months where the student verifies his or her legal name, address, and employer information; (2) annual self-evaluation signed by the student and the employer; (3) any material changes to the school, such as termination.
- Retains the 90-day maximum period of unemployment during the initial period of post-completion OPT, but allows an additional 60 days (for a total of 150 days) for a student who obtains a 24-month STEM OPT extension.

General Application Process

The extension application process remains generally the same. A student initiates the STEM OPT extension process by requesting the designated school official (DSO) to issue him or her a new I-20 form (the "Certificate of Eligibility for Nonimmigrant Student Status") containing the OPT STEM endorsement. Under the new rule, the student and employer must complete and sign the new training plan (Form I-983) before the DSO can issue a new I-20.

Upon receipt of the newly endorsed Form I-20 from the SEVIS (Student and Exchange Visitor Information System), the student files Form I-765, Application for Employment Authorization, with USCIS.

Employer Obligations and Attestations. During an F-1 student's STEM OPT period, employers will be subject to increased obligations. These include:

- Registering and participating in E-Verify at the worksite where the F-1 will work.
- Completing and certifying a training plan for each F-1 STEM OPT applicant and updating the plan as required.
- Conducting two evaluations of the student throughout the STEM extension period and submitting the evaluations to the student's school.
- Making required reports to the F-1 student's DSO.
- Ensuring the student's compensation and other working conditions are commensurate with those of similarly situated U.S. employees.
- Attesting the employer will not replace a U.S. worker with an F-1 student on STEM OPT.
- Readiness to undergo random compliance inspections conducted by U.S. Immigration and Customs Enforcement.
- These obligations apply only to employers of F-1 students working on a STEM OPT approved under the new regulations. They do not apply during the F-1 student's initial 12 months of regular OPT or during a 17-month STEM OPT approved before May 10, 2016, and will not be further extended under the new regulation.

Training and Mentoring Plan

Before requesting a new Form I-20 with the STEM OPT extension endorsement from the DSO, both the F-1 student and the employer must complete and sign Form I-983, Training and Mentoring Plan.

The training plan solicits the student's personal information and the employer's information, and requires certification by both the student and the employer. The training plan should be certified by the employee's supervisor who will monitor the student's goals and performance, or by the HR officer with signatory authority. It also seeks information about the student's role and how it is directly related to enhancing the student's knowledge, the goals and objectives of the training, and how the employer will supervise and evaluate the student.

By signing the training plan, the employer certifies:

1. To notify the DSO within 10 days of any material changes to the training plan. These may include changes to work hours or compensation (other than due to a reduction in

work hours), the employer's EIN number due to a corporate restructuring, and the training plan that would make it or the employer's or F-1 student's attestations inaccurate.
2. To report the student's termination, resignation, or departure to the DSO within five business days.
3. To review and sign the "Self-Evaluation" completed by the student along with his or her direct supervisor or manager. The Self-Evaluation must be completed twice: (i) at the end of the initial 12 months under the training plan, (ii) at the end of the training plan. The evaluation must be completed, signed, and reviewed within 10 days of the date on which it is due. Failure to submit an evaluation to the DSO promptly will result in automatic violation of F-1 status.
4. To adhere to regulations on nonimmigrants under 8 C.F.R. part 214 as follows:
   - The practical training directly relates to the student's STEM degree and will achieve his or her objectives.
   - The employer will ensure on-site supervision and training.
   - Sufficient resources and training personnel are available to provide appropriate training.
   - The student will not replace a full-time or part-time, temporary, or permanent U.S. worker.
   - The duties, hours, and compensation offered in STEM training to the F-1 student are commensurate with similarly situated U.S. workers.
   - The employer will comply with all federal and state requirements in relation to employment certification.

Open Questions

The new OPT STEM rule leaves employers with many questions. For example, what is the scope of required OPT STEM documentation that must be maintained? What level of detail is required when preparing the training plan to ensure that it accurately reflects proposed activities, skills, and knowledge to be gained by the OPT employee? What potential issues can arise from the newly required self-evaluation prepared by the employee, particularly if the employee is subsequently terminated?

While USCIS likely will clarify some of these issues, employers, schools, and practitioners need to make sure they are familiar with the significant program changes and new obligations.

Otieno B. Ombok and Marko C. Maglich are both Principals in the White Plains, New York, office of Jackson Lewis P.C. ■

Source: *Article written by Otieno B. Ombok and Marko C. Maglich, both Principals in the White Plains, New York, office of Jackson Lewis P.C. It was originally published in the June 21, 2016 edition of Employment Law Daily, a Wolters Kluwer Law & Business publication.*

WELLNESS

10 steps for designing successful wellness programs

At the recent webinar, *Winning with Wellness*, sponsored by Mercer and the U.S. Chamber of Commerce, experts provided 10 essential steps to designing successful workplace wellness programs.

"We are asked a lot what the essential steps are for putting together a well-designed workplace wellness program," noted Jenn Roberts, MS, BS, CWC, Mercer, Total Health Management. "So we put together a quick check-up to see if your program is bursting with life or maybe needs some CPR."

Here are the 10 steps to success:

1. **Assess an appetite for wellness.** Before implementing a workplace wellness program, it is "essential to assess an organizations appetite for wellness from the executive level to the mid-professional to the rank and file workers. Everyone is a stakeholder in the wellness program and brings a different perspective," said Roberts. Some questions to ask include: Does your current benefit plan design support wellness? If you have had a wellness program in the past, how did it go? Is the executive ready to commit to a wellness plan? "All of these questions need to be considered," Roberts commented.
2. **Develop a multi-year strategic plan.** Improving health takes time. "There is no magic pill to lose 100 pounds by tomorrow and the same goes for wellness programs," noted Roberts. A multi-year strategy for wellness programs—a minimum of three years—is essential. Over the three year time period, "you would establish a baseline and promote the program's existence in year one, focus on increasing participation in year two, and move towards seeing engagement and health outcomes change in year three and beyond," Roberts said.
3. **Create a culture of health and wellness.** It's not enough to purchase cool wellness products and expect high utilization of the program, according to Roberts. Employers need to push total health management to see changes in clinical outcomes and cost. "Some things employers miss when building a culture of health and wellness is enacting policies that pro-

mote health, like smoke-free worksites, allowing employees to complete wellness activities on the clock, and formalizing incentive strategies."

4. **Communications campaigns.** Communications should be tailored to fit your company's culture and style, should be compelling, and speak to different groups. "Customizing your communications for different worksites, departments, job levels, and health risk levels will make the communications more meaningful," Roberts said. "Also, consider using email, text, video, signs, flyers, mailers—each method has pros and cons. The universal communication method is word of mouth, so harness your wellness champion groups to be your grassroots supporters of the program."
5. **Establish measurement methodologies.** "You need clearly defined goals, outcomes and measurement methodologies for your wellness program," Roberts noted. What are your main objectives for implementing the wellness program? Is it to control costs or to promote value in your company and making it a great place to work? "It can be both of those things, but it is important to outline at the beginning what you are trying to get out of the wellness program," Roberts commented.
6. **Education programs.** Awareness is the first step that individuals need on their path to change behavior, and employees can become aware of their wellness needs through biomedical screenings and/or filling out a health risk assessment. Education is next on their path to wellness. Some common education programs can be: newsletter articles, online health education modules, and even promotional events focused on specific health-related topics.
7. **Interventions.** Targeting people who are ready to change with interventions can be a very impactful strategy, according to Roberts. "We often see this with employers who have had wellness programs for several years and are ready to take it to the next level," she said. "Consider what your claims say. Identify what risk you have, and maybe start with some low-hanging fruit for an intervention, such as weight loss programs, since that can help people with chronic conditions, cardiovascular health and even mental health."
8. **Integrated and engaging member experience.** There are many solutions and products in the wellness marketplace, and there is a lot of overlap in these solutions. "Offering your wellness program with disjointed communications and twenty numbers to call is a real barrier to engagement and ultimately health outcomes," Roberts said. "Integration improves both the member experience and company experience."
9. **Incentives.** According to Roberts, "Incentives are almost a dirty word these days in wellness, but they are still effective. However, some employers can't afford them and some who offer large incentives don't get the results that they expect." Do workers value reduced premiums, cash, or gift cards? Other incentives could be a simple mention in the employee newsletter, lunch with the CEO or simply a shout out at an employee meeting. "Sometimes employees value these non-financial incentives even more than cold hard cash," Roberts commented.
10. **Financial analysis.** This is the culmination of all 10 steps. After you have determined your goals, metrics and desired outcomes, you can determine if it has translated into financial savings on the health plan or value in your company brand, concluded Roberts. ■

BENEFITS

Employer-sponsored benefits used to respond to change

Over the past 20 years, employers have increased and decreased benefits strategically in response to the needs of the workplace and employees as well as to economic and technological changes, according to the Society for Human Resource Management's (SHRM's) 2016 Employee Benefits Survey report released June 20. Employers are responding to workers'—especially Millennials'—demands for better work/life balance with increased telecommuting, flextime and other accommodations. Since 1996, the percentage of organizations offering telecommuting has increased threefold (from 20 to 60 percent), and the percentage offering telecommuting on an ad hoc basis has increased from 45 percent in 2012 to 56 percent in 2016.

Additionally, while annual salary increases are a staple component of compensation plans, many employers have shifted toward monetary bonuses over the past five years to keep overall payroll costs stable. There have been increases for spot/bonus awards, sign-on bonuses for executives and non-executives and retention bonuses for nonexecutives. Also, more than one-half (56 percent) of organizations currently offer service anniversary awards, 51 percent offer nonexecutive bonus plans, and 44 percent offer executive incentive bonus plans.

As a possible solution to the skills gap and heightened recruiting difficulty, employers have also begun paying for more professional membership dues and opportunities. Currently, 88 percent of companies pay for professional membership dues compared to 65 percent in 1996. ■

HR NOTEBOOK

CPI for all items increases 0.2% in May

The Consumer Price Index for All Urban Consumers (CPI-U) increased 0.2 percent in May on a seasonally adjusted basis, the U.S. Bureau of Labor Statistics (BLS) reported June 16. Over the last 12 months, the all items index rose 1.0 percent before seasonal adjustment.

The food index declined in May, but the indexes for energy and all items less food and energy rose, resulting in the seasonally adjusted all items increase. The food index fell 0.2 percent, as all six major grocery store food group indexes declined. The energy index increased 1.2 percent as the gasoline index rose 2.3 percent and the indexes for fuel oil and natural gas also advanced.

Real average hourly earnings are unchanged in May

Real average hourly earnings for all employees were unchanged from April to May, seasonally adjusted, the BLS reported June 16. This result stems from a 0.2-percent increase in average hourly earnings being offset by a 0.2-percent increase in the Consumer Price Index for All Urban Consumers (CPI-U).

Real average weekly earnings were unchanged over the month due to no changes in both real average hourly earnings and the average workweek.

Real average hourly earnings increased 1.4 percent, seasonally adjusted, from May 2015 to May 2016. This increase in real average hourly earnings combined with a 0.3-percent decrease in the average workweek resulted in a 1.1-percent increase in real average weekly earnings over this period.

Unemployment rate declines to 4.7% in May

The unemployment rate declined by 0.3 percentage point to 4.7 percent in May, and nonfarm payroll employment changed little (+38,000), the BLS reported June 3. The number of unemployed persons declined by 484,000 to 7.4 million. Employment increased in health care (+46,000) and professional and business services (+10,000). Mining and manufacturing continued to lose jobs (-10,000 and -18,000, respectively), and employment in information decreased due to a strike (-34,000). Employment in other major industries, including construction, wholesale trade, retail trade, transportation and warehousing, financial activities, leisure and hospitality, and government, changed little over the month.

POLITICS

HR reporting to SHRM some political volatility at work

This election year is bringing greater political volatility to the workplace, with slightly more than one-quarter of respondents to a new Society for Human Resource Management (SHRM) survey reporting tension, hostility or arguments among co-workers because of political affiliation. While a majority of HR professionals (72 percent) said their organizations discourage political activities in the workplace, only 24 percent of organizations have a written policy and 8 percent have an unwritten policy about political activities in the workplace.

More than two-thirds of respondents (70 percent) reported no difference in the political volatility in their workplaces, and 5 percent reported less volatility during this presidential election compared with previous election years. However, this indication of decreased volatility might be a result of employees not discussing politics for fear of creating tension in the workplace, as is evident in verbatim responses: "There is so much potential volatility that employees are not discussing the election at all," one respondent said. "People seem less willing to talk about who they support for fear of backlash, as the candidates are fairly polarizing figures," responded another.

Evren Esen, SHRM's survey program director, said: "Even a minor increase in political volatility can create major headaches in the workplace if not managed well. With five months until Election Day, HR professionals must be tuned in for changes in the culture of their organizations and recognize that tension may increase in the coming months, making it necessary to stress collaboration despite different political perspectives."

Voting. The survey also asked about voting, finding 86 percent of HR professionals say their organizations allow employees to take either paid (53 percent) or unpaid (33 percent) time off to vote. Of these, 54 percent are required to do so by state law. Interestingly, more than three-quarters (77 percent) said their organizations do not take any actions to encourage employees to vote. ■