

Employee Health Literacy: More Mandates Is Not the Answer

My name is Chantel Sheaks. I am a Principal at Buck Consultants. I lead Buck's Government Affairs Division and manage the firm's publications and research teams. Buck, an independent subsidiary of Xerox, is a global HR consulting firm of nearly 2,000 employees that helps organizations develop, deploy, and manage their human capital. We craft solutions that help our clients solve complex HR and business challenges. With more than 80 global locations, Buck's clients include 45% of the Fortune 100. Previously, I was a partner in employee benefits for a major law firm and an adjunct professor at Georgetown University Law Center. I have practiced in the area of employee benefits law for over 14 years.

Today, I will discuss the importance of employee health literacy, why employers have a vested interest in the health literacy of their employees and their employees' families, how mandated employer notice and disclosure requirements under Employee Retirement Income Security Act of 1974 (ERISA) and the recently enacted health care reform law do not serve to improve health literacy and how employers are currently working to improve their employees' health literacy through the use of common sense communication techniques.

Health Literacy: It's All about Everyone's Bottom-Line

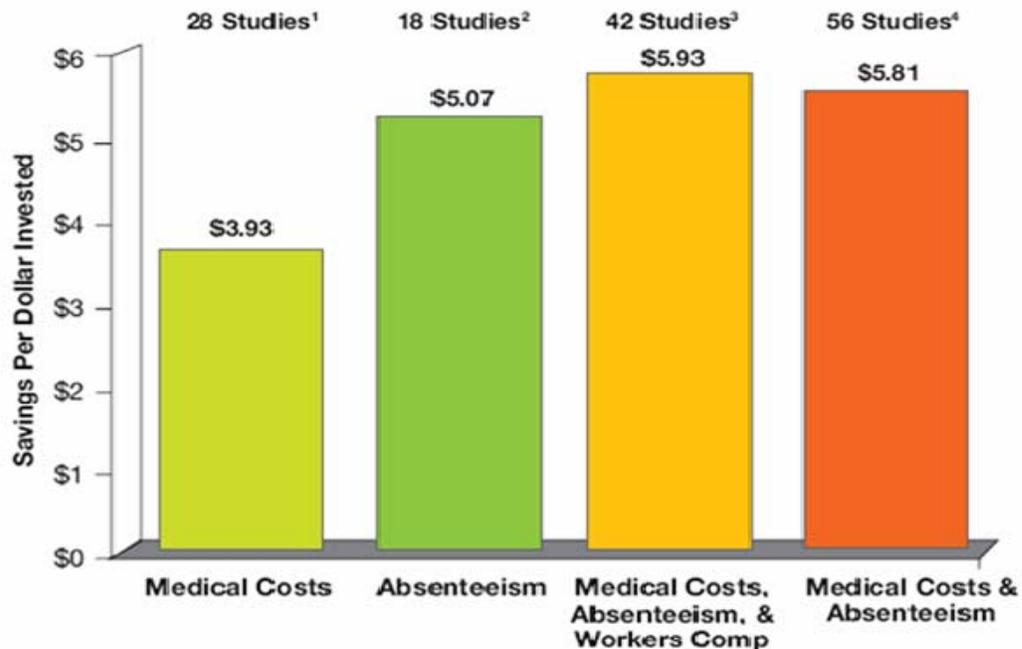
Determining whether employees are health literate requires assessing the degree to which they have the capacity to obtain, process and understand basic health information and services needed to make appropriate health decisions.¹ The consequences of poor health literacy are potentially far reaching, impacting employees':

- Ability to select the best health plan option,
- Utilization of preventive services,
- Adherence to medical treatment plans, and
- Use of expensive health care delivery options such as emergency room services.

In addition, employers' health care plan costs and productivity are impacted by the health literacy of its workforce. Health literacy impacts productivity, such as utilization of sick days, disability claims, and errors, which, in turn, impacts competitiveness. In fact, as indicated in the following graph, numerous studies have found that there is a significant return on investment to the employer for investing in health literacy.

¹ *Healthy People 2010* (<http://www.healthypeople.gov/Document/pdf/uih/2010uih.pdf>)

Return on Investment In Worksite Health Promotion



1. Source: Aldana, SG, *Financial impact of health promotion programs: a comprehensive review of the literature*, *American Journal of Health Promotion*, 2001, volume 15:5: pages 296-320.
2. Source: Aldana, SG, *Financial impact of health promotion programs: a comprehensive review of the literature*, *American Journal of Health Promotion*, 2001, volume 15:5: pages 296-320.
3. Source: Chapman, LS, *Meta-evaluation of worksite health promotion economic return studies*, *Art of Health Promotion*, 2003, 6:6, pages 1-16.
4. Source: Chapman, LS, *Meta-evaluation of worksite health promotion economic return studies: 2005 Update* *Art of Health Promotion*, 2005, p. 1-16.

Mandating Employer Health Literacy Has Not and Cannot Work

The federal government's response to concerns regarding health literacy has primarily resulted in increased information disclosures to plan participants and beneficiaries. However, this increased disclosure by plan sponsors has not necessarily lead to increased health literacy. ERISA requires plan administrators and sponsors of private-sector employment-based health plans to provide information to plan participants and beneficiaries regarding how the plan works and changes to the plan's benefits. Specifically, the law requires the following be distributed to plan participants and beneficiaries:²

1. Summary Plan Description (SPD)
2. Summary of Material Modifications to the plan
3. Summary Annual Report
4. Notification of Benefit Determinations
5. Plan Documents
6. Summary of material reduction in covered services or benefits
7. COBRA notices and certificates of creditable coverage
8. Notices relating to preexisting condition exclusions
9. Notice of special enrollment rights

² In some instances, the documents need only be distributed to participants and beneficiaries upon request.

10. Notices relating to women's health and cancer rights, qualified medical child support orders and federal and state requirements relating to hospital length of stay in connection with childbirth

Of these documents, the SPD is the primary document that employees are provided to understand eligibility, the scope of health care benefits covered and the rights and responsibilities of participants and beneficiaries. ERISA requires that an SPD be written in a manner calculated to be understood by the average plan participant and be sufficiently accurate and comprehensive to reasonably apprise participants and beneficiaries of their rights and obligations under the plan. ERISA requires that an SPD be furnished to each participant and beneficiary within 90 days after an employee becomes a participant or a beneficiary begins receiving benefits, or, if later, 120 days after the plan becomes subject to the reporting and disclosure requirements of ERISA. Under ERISA and Department of Labor (DOL) regulations, the SPD must contain, among other information, the following:

1. Plan name
2. The name and address of the employer
3. The employer's EIN
4. The type of plan – i.e. welfare plan, group health plan, disability, life, etc.
5. The type of administration – third party, insurer, etc.
6. The name, business address and telephone number of the plan administrator.
7. The name and address of the person designated as the agent for service of legal process
8. The name and address of the trustee (will only apply if there is a VEBA)
9. If the plan is maintained pursuant to a collective bargaining agreement (“CBA”) such statement and that the CBA may be obtained upon written request
10. Eligibility and participation requirements
11. Conditions for actually receiving benefits. If there are extensive schedules as most health plans have, a general description of the benefits if there is a reference to the particular schedules and that such schedules may be obtained free of charge
12. Description of Qualified Medical Child Support Order procedures and a statement that the procedures may be obtained free of charge
13. A description of any cost-sharing provisions, including premiums, deductibles, coinsurance and copayments, annual or lifetime caps or other limits on benefits under the plan
14. A description of the extent to which preventive services are covered
15. A description of whether, and under what circumstances, existing and new drugs are covered under the plan
16. Whether, and under what circumstances, coverage is provided for medical tests, devices and procedures
17. A description of the provisions governing the use of network providers, the composition of the provider network and under what circumstances coverage is provide for out of network service. The list of network providers may be provided separately so long as the SPD contains a statement and they are provided free of charge

18. A description of any conditions or limits on the selection of primary care providers or specialty providers, conditions or limits on obtaining emergency medical care
19. A description of the provisions requiring pre-authorization or utilization review
20. A statement identifying the circumstances which may result in disqualification, ineligibility, or denial, loss, forfeiture, suspension, offset, reduction, or recovery (including subrogation and right of reimbursement provisions)
21. A description of the authority of the sponsor to amend, modify or terminate the plan.
22. A description of the fees imposed to receive benefits
23. A description of COBRA rights
24. A description of the sources of contributions (employee, employer or both)
25. Identification of funding method – self –funded or insured. If insured, the name and address of the insurer, if benefits are guaranteed by the insurer, the nature of any assurance
26. The plan year
27. Claims procedures (including pre-authorization and utilization reviews), any time limits for bringing claims, and remedies available under the plan. These may be provided separately
28. Statement of ERISA rights under subsection (t) of the regulations
29. Newborns' and Mothers' and Women's Cancer Notice
30. Separate SPDs may be provided to separate groups so long as the SPD indicates that there are separate SPDs

In addition to the SPD content requirements listed in ERISA and the DOL regulations, case law regarding what is covered by a plan has shaped the content of SPDs. Specifically, SPDs also include:

1. Firestone language: Language stating that the plan administrator has the sole discretion to decide all claims under the plan, including the plan administrator's authority to delegate this authority to another appropriate party
2. A statement that the plan controls over the SPD
3. Language stating that the claims procedures must be exhausted before filing a lawsuit
4. The plan's statute of limitations for bringing a claim in court
5. Language stating that benefits are not vested and may be modified or terminated at any time
6. Language describing the plan's subrogation and right of reimbursement language.

As a consequence of statutory and regulatory and case law, SPDs have increasingly included far more information, and, as a consequence have become far less useful to participants and beneficiaries because of their complexity and far more expensive for employers. Based on our experience, the average medical only SPD is between 80 and 100 pages and can cost up to \$30 per participant just in printing and shipping charges. This amount does not include the cost to actually write the text or the cost of legal review. In fact, one large employer with whom I spoke on this topic broke out his company's expense for producing and distributing SPDs as follows:

Mailings: 125,000 packages

Pages sent: 17,000,000
Cost to print and mail: \$750,000
Cost to update: \$750,000
Internal time: One full-time position

Given the amount of money plan administrators spend on producing SPDs, it is fair to question the usefulness of SPDs, especially with respect to improving health literacy. One study by the Employee Benefits Research Institute (EBRI) addresses this issue³. The study collected and tested SPDs for 40 health care plans from a national sample and subjected them to content and readability analyses. The study found that the average readability level for information concerning eligibility, benefits, and participant rights and responsibilities, all of which directly impact health literacy, is written at a first year college reading level. The study further pointed out that, on average, adult Americans read between the 8th and 9th grade reading levels.

As a direct result of all of the above, while participants and beneficiaries are receiving a significant amount of information regarding their rights and obligations under a plan at a huge cost to the plan sponsor, their understanding of this information – and their ability to use the information to make informed health care choices – is often quite limited. As a consequence, participants may not select the best plan option for themselves and their beneficiaries, and after they select a plan, they often do not understand the scope of the benefits offered under the plan or how to best utilize the benefits provided under the plan.

Health Care Reform – Its Impact on Health Literacy

The Patient Protection and Affordable Care Act (PPACA) became law in March 2010. Rather than simplify the health plan information disclosure requirements already imposed by ERISA and its regulations, PPACA requires plans to provide additional notices and disclosures. Two of these new notices are the uniform explanation of benefits and coverage and the disclosures of plan data and financials.

Under PPACA, the Secretary of HHS will develop a standard summary of benefits and coverage that group health plans will need to use to describe benefits (in addition to the current SPD and SMM requirements). The summary must not exceed four pages, be in 12 point font, be presented in “culturally and linguistically” appropriate language, and include the following:

1. Uniform definitions of standard insurance terms and medical terms
2. A description of coverage and any cost-sharing (including any deductibles, coinsurance and copayments)
3. Any exceptions, reductions and limitations on coverage
4. Renewability and continuation coverage provisions
5. Coverage facts label illustrating common benefit scenarios, including pregnancy and serious or chronic medical conditions
6. A statement of whether the plan provides minimum essential coverage and has an actuarial value of at least 60 percent

³ How Readable Are Summary Plan Descriptions for Health Care Plans, EBRI Notes, Vol. 27, Num. 10, October 2006, http://www.ebri.org/pdf/notespdf/EBRI_Notes_10-20061.pdf.

7. Contact number to call and an internet address for a copy of the policy (and presumably the SPD for self-funded plans)

Notably, most all of this information already is required to be in SPDs. As such, mandating this additional disclosure surely will increase the plan sponsor's cost, but it is questionable how it will improve health literacy.

Plan sponsors also will be required to disclose additional plan data and financials. Under PPACA, the Secretary of Labor will update the participant and plan disclosure requirements to be consistent with the standards established by the Secretary of HHS for Exchange⁴ plans, relating to the following:

1. Claims payment policies and practices
2. Periodic financial disclosures
3. Data on enrollment
4. Data on disenrollment
5. Data on the number of claims that are denied
6. Data on rating practices
7. Information on cost-sharing and payments with respect to any out-of-network coverage
8. Information on enrollee and participant rights
9. Any other information the Secretary of HHS determines appropriate

President Obama and Congress, through the enactment of PPACA, sought to make available affordable health care options for a greater number of people. The law, however, does little, if anything, to improve health literacy of employees in employer-sponsored plans. Instead, these new requirements will further overwhelm participants and beneficiaries with additional notices and disclosure, even though it has been shown that such mandated disclosures in the past have done little, if anything, to improve health literacy.

Plan Sponsors' Common Sense Efforts Toward Improving Health Literacy

Plan sponsors have long understood the importance of a health literate workforce and the necessity and utility of communications beyond those required by ERISA to promote and encourage employee health literacy; however, further mandated reporting and disclosure requirements are not the answer. Instead, I propose that as part of its education and outreach initiatives, the DOL work with plans sponsors to connect those plans sponsors who are using best practices in health literacy communications with other plan sponsors.

Plan sponsors are using both low- and high-tech methods to share information about their health plans and health literacy with their employees. One employer we work with realized that health literacy communications need not be fancy or expensive, they just need to be read. To that end, the human resources department implemented the "Stall Talk" program. Under this program, each week, the HR staff picks one or two items they wish to communicate (e.g. how to utilize the

⁴ Under PPACA, the Exchanges will serve as a clearing house where individuals and certain employers may, among other things, purchase private health care insurance.

case management program or the importance of having a primary care physician). They then write this information up on one sheet of paper. They make photocopies and tape a copy on the inside of all of the toilet stalls. Since implementation, the HR director has noted more informed and engaged employees. As he noted, a captive audience is the best audience.

No matter how much the government requires that plan sponsors disclose information, it is useless if it is not read. As noted previously, many SPDs are written above most employees' reading level, and the technical jargon can be mind-numbing, even for the most educated participant or beneficiary. One plan sponsor overcame this by tailoring its enrollment material to its product. The employer is a marketer of apparel and consumer soft goods. To embody the company's new forward-thinking philosophy, the company created *Trends* — a fashion/lifestyle magazine — as a replacement for the traditional enrollment guide, and one that was especially befitting a plan sponsor in the fashion industry. The magazine took what was previously perceived as complex benefit information and transformed it into easily understandable terms. As described in Appendix A, because of this new communications model, plan enrollment increased in key areas because of increased understanding and an actual desire to read the enrollment material.

In this digital age, plan sponsors are moving beyond paper communications. However, to be effective, these communications must be more than mass e-mails or merely posting a digital version of an unintelligible SPD. As described in more detail in Appendix B, Safeway has created an inter-active portal that engages employees and their families in understanding the importance of taking control of their own health and health literacy, including creating an avatar that actually changes as the participant's BMI changes. Furthermore, this portal includes a behind-the-scenes data exchange with benefit plans, administrators and other resources. Quick links and single-sign-on to these outside resources provides users with easy access to the information and tools they need to make informed health care choices.

Finally, leading-edge plan sponsors understand that health literacy goes beyond the participant. As such, these plan sponsors are targeting the participants' family as well by including them in live benefit discussions or allowing employees' spouses access to web-based plan information and health improvement initiatives, such as with the Safeway model. This is especially important as often the participant may not be the primary health care decision maker in the family, and the health literacy and health status of the participant's family has a direct impact on the participant's productivity.

Conclusion

Health literacy impacts everyone. Savvy plan sponsors employers realize that their employees' and their employees' families' health literacy is a matter of corporate survival. Government regulation on plan sponsors will not increase employee health literacy. Instead, the DOL should act as a facilitator of best practices to allow plans sponsors to share and educate other plan sponsors about innovative practices that actually work.

case | study

Success Stories From Buck Consultants

Employee Communications Rebranding

A new approach to Annual Enrollment

"I honestly believe that this is the standard that we should strive for in everything we do."

– Company's Director of Organization Development & Talent Management



Trends enrollment magazine

CLIENT ISSUE

A leading marketer of apparel and consumer soft goods with 5,000 employees restructured in 2005 and placed the strategic focus of the company on talent and the ability to be innovative and proactive. Because of the change in corporate philosophy, the company wanted to update the look and feel of their internal communication materials and realized the 2007 annual enrollment presented a prime opportunity to share the company's new direction with employees.

GOALS AND OBJECTIVES

- **Develop a "fresh, new" brand.** The objective was to create a brand that would help employees understand the philosophy of the company and engage them in the excitement of the company's new direction.
- **Increase employee understanding of the value of their benefits.** In addition to conveying the energy and excitement of the new direction, the company also wanted to increase the perceived value of the benefit package.
- **Create a fun, exciting theme for enrollment materials to launch the new brand.** The key objective was to motivate employees to read their enrollment materials and take a more active role in their benefits decisions.

SOLUTION

To embody the company's new forward-thinking philosophy, Buck created *Trends* — a hip fashion/lifestyle magazine — as a replacement to the traditional enrollment guide, and one that was especially befitting a client in the fashion industry. The magazine took what was previously perceived as complex benefit information and transformed it into easily understandable terms.

Trends was designed and produced for use during annual enrollment, new hire orientation and recruitment.

RESULTS:

The revised enrollment communications resulted in an increase in enrollment for the dental plan (7.5%), vision plan (31%) and health care FSA (26%). The client was “very pleased” with the enrollment results and noted that the results for the vision plan are especially good considering that the vision plan is paid 100 percent by the associate.

In addition to increased enrollment, feedback about enrollment communications was overwhelmingly positive among both the employees and senior level management. For the first time in years, associates were intrigued to read the benefit material from cover to cover. The client’s new director of organization development & talent management commented that “In addition to delivering exactly the information I needed to enroll in our programs, it ‘said’ to me, ‘this organization is on top of its game.’ As I think about this, if the message came off so strongly to me, it must carry the same weight with current associates. I honestly believe that this is the standard that we should strive for in everything we do.”

Similarly, the vice president of Human Resources at corporate said he was “blown away with the presentation” and that Buck “knocked it out of the park.”

The project won a 2007 Gold Quill Award, the highest distinction recognized by the International Association of Business Communicators (IABC).

CONTACT US

For more information on this project or other successful annual enrollment campaigns, contact Jennifer Whitlow at 314.719.2534 or via email at jennifer.whitlow@buckconsultants.com.

Examples of Our Work

Safeway, Inc.

Supporting Healthy Lifestyles through Technology

- For Safeway's Benefits Department we:
 - Facilitated a two-day portal strategy workshop, which included an assessment of its current online environment (intranet plus vendor-partner website)
 - Devised a near- and long-term portal strategy
 - Developed detailed functional specifications for Phase 1 of the new Safeway benefits portal
 - Created a graphical user interface (GUI) design.
- Safeway then hired us to implement (build) the new portal, which includes links with single sign-on (SSO) to, and data exchanges with, multiple vendor partner sites.
- Right now we are implementing several site enhancements and working with Safeway to document future phase enhancements.
- User acceptance of the portal met Safeway's objectives and exceeded expectations; in the first six months:
 - 90% of the eligible population – employees and covered spouses/partners – accessed the site
 - Repeat visits average 7+
 - User feedback has been extremely positive.
- The site has been recognized with numerous awards, including a Platinum Hermes Creative Award, sponsored by the Association of Marketing and Communication Professionals; International Association of Business Communicators (IABC) Gold and Bronze Quill Merit Awards and an APEX Award for Publication Excellence. Buck and Safeway have also co-presented Safeway's Culture of Health and supporting portal strategy at industry conferences.

