



ERISA Advisory Council

June 6, 2017

Reducing the Burden and Increasing the Effectiveness of Employment-Based Health Benefit Plans in the Private Sector.

Personal Background

Elizabeth Queen is the president of Central Data Services. CDS is a professional third party administrator serving Taft-Hartley clients. CDS is based in Pittsburgh, PA and serves multi-employer plans, welfare, pension and security plans. CDS currently provides professional administration to 35 retiree VEBA plans. The VEBAs range in size from 20 participants to over 20,000 and offer benefits including medical, prescription drug, reimbursement arrangements and death benefits.

Introductory Comments:

Thank you for this opportunity to address the Council on this important matter. As a professional administration firm, we work with our clients to develop and distribute all plan communications. We do not offer any actuarial, brokerage or legal services. We provide direct response to participant questions and inquiries about all plan communications. Our firm is somewhat unique with a special focus on retiree VEBA welfare plans. Unlike employer plans, retiree VEBA plans usually have finite funding. The cost burden of regulatory compliance and mandated communications falls on the participants. In a retiree VEBA, every dollar spent on development, printing and distribution is not available for benefits.

From my perspective, there is nothing more important than ensuring that our members understand their benefits and how to access them. That is the focus of our work and of our service delivery. I have gathered information and perspective from the individual account service teams and listened to a number of the incoming telephone calls from members that have just received their SAR or their Summary Plan Description to help inform my comments today to the Council. My comments are also influenced by the fact that our focus on service to Union plans and to retiree VEBA plans heightens my awareness that any dollars spent on required documentation is not spent on benefits for our members. These VEBA plans have limited assets, frequently with no source for additional funding, communications that are developed, printed and distributed cost a significant amount without providing optimal communication about benefits.

Proposal 1- Elimination of the Summary Annual Report

I support the elimination of the Summary Annual Report. Unfortunately, the summary of the form 5500 financial report does not assist members in understanding the operations of their welfare plan in a way that is understandable or useful. I was unable to identify any calls in a survey of 50 calls the two weeks following the mailing of an SAR regarding the SAR. Our teams report that the SAR is thrown away and that if a member does call it is to express confusion about the information included. Reading a plan financial summary does not identify for members what matters to them, it does not include how long the plan will last, whether or not the benefit costs will increase for them, or decrease, or at what rate. The summary provides information on where to access the full financial statement and we rarely receive any requests for the full report. In my experience the SAR is a confusing document that members do not review.

I do believe that members should have access to the full financial report if they are interested in the operations of their Plan. I believe this could be accomplished with a simple post card that references its availability.

Proposal 2- The Consolidation of each of the various annual notices into a single notice issued in a standard format.

Consolidating the required annual notices would be helpful. I would appreciate if the Department could provide a required notices template or model in a combined form that would assist us in ensuring that all notices are sent in a uniform way rather than developing individually for each Plan and mailing throughout the year. If the Department created a single document to convey the required information to all ERISA plan participants, it would reduce the burden on the plan administration office to create this for each plan individually.

I would encourage the Department to create a resource site for all ERISA plan members that includes the appeals rights, claims procedures, how to access plan information like the 5500 and all the model notices. The DOL/EBSA/ Workers & Families site is available, however I do not believe many members actually know how to access this information. If plan sponsors could include this web resource for all members, rather than printing and mailing each individual notice, our members would have real time updates and access to the entire repertoire of information for any ERISA plan participant. This site could include translated material, audio material and general guidance.

In its current form, the required notices are overwhelming to members and the additional information, sent annually, risks obscuring important information that the member does need to review. I would recommend eliminating the required notices and instead furnishing them

when they may be relevant. For example, the Newborns Act and the Women’s Health & Cancer Rights are not relevant to the vast majority of our retirees. The claims administrator knows when these provisions would be relevant. Rather than drafting them and sending them to all members every year, printing these notices in conjunction with a diagnosis of pregnancy or breast cancer would be useful to the member and perhaps then noticed.

Our experience is that members are not reading these notices, if they were provided at a time that it was potentially useful to them directly, I do believe the intent to protect members would be better accomplished. Obviously some notices, like the Special Enrollment and CHIPRA, would not fit in this category. For these broader disclosures, a combined model or a mention that there are Federal rules about your rights and where to find additional information would reduce the burden on plans and permit members to access what is meaningful for them at the time.

Proposal 3- Modification of the Summary Plan Description requirements to allow a short resource reference tool updated annually.

The Summary Plan Description is a very difficult plan communication. The costs associated with the development of this document are truly burdensome. Our plans must pay legal fees to draft the documents, sometimes hire professional consultants to ensure readability of this legal document, pay to print these hundred page books and then mail to each member. Sadly, like other required plan communications, these are frequently thrown away. Members are overwhelmed by the amount of information included in the SPD and unable to identify the details that they do need.

I would like to see an index with “What’s New” clearly described and clear indications as to whether the member must do anything to reply to the communication. A clear statement “action required” or “no action required” would be very helpful for the members. When reviewing our customer service calls, our members call regarding how to get enrolled, how to pay any required premium/ contribution toward their coverage and what benefits are provided through their VEBA. In our VEBA plans, the rules regarding eligibility or enrollment are frequently a continuation of what the rules were when they were an active employee and what was bargained for them. Most of our SPDs fully detail these provisions, but our members get lost in the details. If we could send an index with how to access full Plan information on relevant rules, I believe we could provide less irrelevant information and begin to provide information that our members do read.

Prior testimony details the impossibility of creating a member friendly document that still conveys all the required Plan information and complexity in a way that will protect the Plan. I would advocate offering a benefit guide that identifies the benefits, compares benefit options if there are options, and the costs of coverage. The eligibility rules, funding policy, governance and other plan information like the COBRA rights, Privacy Policy and appeals information could be provided independently when needed. If we could provide an index with topics by life event or broad category, we could reduce the cost to the Plan and send members only the information that they need in that moment.

The costs associated with these required communications are real. We spend \$5,000 to \$50,000 for printing and binding, \$3,000 to \$40,000 for counsel's work in the development and drafting of the document and sometimes costs for the professional consultants to assist as well. Each document must be mailed to each participant's home.

Postcard is 0.34

The cost of a letter is \$0.46 (we use a presort service that may even reduce this to 0.403.)

A heavy letter ranges from 0.67 to 0.88 (over 10 pages.)

A flat envelope (10 x 13) costs 0.98 to over \$3.

Our members are frustrated to receive the volume of repetitive information that a plan must send. If we could provide a card that the communications and notices are available free of charge or may be downloaded, members that were interested could access the material easily, and only receive what they are interested in reviewing. An electronic copy has other advantages, electronic information can be viewed and stored with no cost, it can be searched by key word and it can be copied for sharing with others. A digital document could further enhance access with definitions and links to important details. Any member that does not access a computer could still request a printed copy of any information. I have created a postcard for the Council to consider.

Some of the required notices are overly wordy and complex. I modeled a simplified version of the current General Notice of COBRA Continuation Rights. While the full text of these notices may be descriptive and provide broad legal guidance, I fear that noble purpose is obscured by the fact that the overly wordy document is overwhelming and members are unable to identify what actually matters to them. What we want to convey- that a member has access to continued coverage if coverage is terminated- is lost in the pages of details. Further, this required notice in particular actually causes a negative reply from members who are confused that they are getting COBRA information.



My hope is that we could allow plans, especially small plans, the freedom to draft abridged communications, distribute communications electronically or only provide notice that these generic communications are available.

In summary, I do believe that there is opportunity to improve our communications to plan participants. Both by streamlining the required notices into less wordy abridged versions, providing electronic access to plan materials and offering relief from the development and distribution of the SAR. Limiting the expense of compliance with these regulatory requirements would allow additional assets for benefit expenses, the purpose of these plans.

Thank you again for the opportunity to participate in this forum.