

The Answer

An E-Newsletter from *Answer Human Assets*

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Answer Human Assets

As a Human Resources outsourcing company, *Answer Human Assets (AHA)* provides experienced, knowledgeable, personalized Human Resources support to small and mid-sized companies in a cost effective way so the company's management can focus on the core business.



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Please contact us at theanswer@ahahr.com to discuss any of the issues in this newsletter.

MESSAGE FROM THE FOUNDER - KEN POLLET

A friend and several family members have owned a bowling alley in one of the southern states for many years. The establishment has six full-time employees and provides medical insurance to these workers. Last year, one of their employees had a heart attack, eventually recovered and returned to work. Several months later, when the plan year ended, the health provider refused to renew the contract for medical coverage – even though the bowling alley had been with the same insurer for many years. My friend was very disappointed, not understanding why the carrier would not renew their coverage, despite the number of years of being a good customer.

Why wouldn't a medical insurance provider renew a policy for this long-term client? Their actuarial tables for this small company would indicate that any premium charged for a six person organization would not support the anticipated pay-outs if one member had a heart attack. The insurance carrier wasn't being bad or insensitive – this logical business decision was based on the laws of their state.

Medical coverage in the U.S. has many problems - and this situation illustrates an important one. Some states give

insurance companies the ability to individually underwrite medical benefits for a small business - to set the premium for that small group based on what the expected pay-outs might be. If an employer has 50,000 employees, maybe that concept works. If an employer has six employees and one has a health issue, the concept definitely does not work.

Clearly, we need to find ways to control health care costs. Just as clearly, we need to find ways to distribute the cost of health care in a reasonable way so a small employer can provide insurance to its employees – regardless of their health.

Dilemmas such as the one faced by the bowling alley happen more frequently than you would think. When these problems do occur, your company needs to have a teammate who understands applicable rules and regulations and has the knowledge and tools to resolve your issues. Answer Human Assets is such an advocate. We bring years of knowledge and experience to work on our customers' challenges – coming up with standard as well as “out-of-the box” solutions. AHA is not a provider of product – we solve your problems!

Ken Pollet, Founder, kpellet@ahahr.com

Answer Human Assets—Partner with us so you can focus on your core business!

Same-Sex Marriage & Employer-Provided Benefits

The state of New York's recent passage of a law permitting the marriage of same-sex partners marked a major step for the gay-rights movement. NY now joins Massachusetts, Connecticut, Vermont, New Hampshire, Iowa and the District of Columbia in issuing marriage licenses to same-sex couples.* While NY is the largest state to pass this law, many unanswered questions exist for NY employers about how the law will affect benefits, taxes and company policies.

Federal taxes are not affected by same-sex marriages. The Defense of Marriage Act (DOMA) enacted in 1996 defines marriage as the union between a man and a woman. As long as this act is law, same-sex marriage will not be recognized on the federal level. Same-sex couples are therefore not able to file their federal tax returns jointly. In NY, it is presumed that same-sex couples would now be able to file their state taxes as married couples. The existence of DOMA also means that COBRA and FMLA are not affected by the passage of same-sex marriages laws at the state level, since these two acts are also governed on the federal level.

Another possible change in NY is taxation on an employer's contribution to cover the health insurance benefits of a spouse. Opposite-sex married couples do not pay tax on this contribution, while same-sex couples may have to pay. Likewise, if employees are able to pay their portion of the health insurance on a pre-tax basis, the amount paid for a same-sex spouse may not be pre-tax. The NY State Department of Revenue has yet to establish guidance on this issue.

According to a Society of Human Resources Management survey, slightly more than one-third of U.S. employers offer health coverage to their employees' same-sex partners. Employers may require couples living in a state that permits same-sex marriage to be married in order to receive benefits.



How employers administer health and welfare benefits for same-sex couples depends on whether or not the state in which employees reside has passed a state-level DOMA. Many states have passed laws prohibiting same-sex marriages or the recognition of same-sex marriages formed in other states. Benefits requirements mandated at the state level affect fully-insured plans. For example, NY employers with fully-insured medical and dental plans will need to offer the same benefits to same-sex spouses as they do to opposite-sex spouses. Employers will need to communicate new benefits entitlements. Self-insured plans are governed on the federal level by the Employee Retirement Income Security Act of 1974 (ERISA) and are not subject to state mandates. Employers offering these plans can decide whether or not to offer coverage to same-sex spouses.

While employers wait for guidelines from the state of NY, AHA can help outline the issues that need to be addressed in their workplaces.

*Same-sex marriages performed prior to the passage of Proposition 8 in California on November 4, 2008, remain valid.

By Susan Gallen, Associate, 610-500-1801, sgallen@ahahr.com

NOTIFICATION REQUIREMENTS FROM THE NLRB

Did you know that effective January 31, 2012, employers will be required to notify their employees of their rights under the National Labor Relations Act? Private-sector employers whose workplaces are subject to the National Labor Relations Act (which excludes agricultural, railroad and airline employers) will be required to post the employee rights notice in the same places as other workplace notices (whether that be on a bulletin board or online). The notice states that employees have the right to act together to improve wages and working conditions, to form, join and assist a union, to bargain collectively with their employer, and to refrain from any of these activities. It provides examples of unlawful employer and union conduct, and instructs employees how to contact the NLRB. Employers will be able to download the poster from the NLRB website www.nlr.gov beginning January 31, 2012.

Employee Evaluations & Annual Salary Reviews

“I had my employee evaluation today and got all 5s, the top of the scale! I think I’m going to get a great raise – maybe even 10 – 15%.” Some of you reading this article may be thinking that this statement is an exaggeration. In some companies, maybe it is – in others, maybe not.

As the evaluation season gets underway, many companies struggle with defining a relationship between employee evaluations and the annual salary review process. Some companies tie these two initiatives together and reward employees based on their performance. Another school of thought says that companies should think about separating the two processes as much as possible.

Ideally, evaluations are about determining how the employee performed against his/her professional objectives as well as establishing personal goals for individual growth and career development. Employers can take this time to talk to employees about their accomplishments, their strengths, their areas of development and how they could have performed better. Then a discussion can be had about the goals for the coming year. What does the employee need to accomplish and even exceed these goals? What training would be helpful? What are the employee’s personal goals - improving his/ her public speaking ability or learning a new software program? During this discussion, the employee should have a good idea how he/she is viewed by his/her supervisor, the company and walk away with a road map for the next year.

The salary review process is really dependent on a very broad set of factors in addition to individual performance. Companies need to consider their profitability, the economy, internal equity, the competitive market and inflation to name a few. An employee of 30 years can be the best receptionist in the world. Salary ranges for various positions should be established, however, and limits exist on how much a company would pay a receptionist – no matter how good he/she is.

Message dissemination and expectation management for each of these areas is important. For all of the communications that companies send out in a year, the memos pertaining to compensation and to career development will generally be the most carefully read and the most frequently discussed. Think carefully about what you want to say – and how you want to say it.

As an aside, going back to the first line in this article, you may want to look at how many people in your organization receive “all 5’s” on their evaluations (or the equivalent – depending on the system you’re using). If more than a very small percentage of your employees are rated this high, you may want to consider some training for the supervisors who are preparing the evaluations! AHA is available to discuss all of these issues related to employee evaluations and compensation, including conducting training for your managers.

By Ken Pollet, Founder, kpollet@ahahr.com



Does your company have a standard employee review process?

Employee Preparation

Employees should come prepared for their review by listing their accomplishments and evaluating how they performed against their goals. Sometimes, the employee is harder on himself than the manager would be! Employees should take time to think about both their professional and personal goals for the coming year. This way, the meeting is much more productive and includes a two-way conversation.

Year-End Checklist for 2011

As the end of the year approaches, start preparing your company for the upcoming year. Here are some areas to focus on in the fourth quarter.

- ⇒ Confirm any changes to the current benefits plans and communicate any adjustments to employees. Schedule open-enrollment.
- ⇒ Ensure an employee review process is in place. Evaluate employees for possible promotions. Identify under-performers. Review succession plans.
- ⇒ Update and distribute the holiday and vacation schedule for 2012.
- ⇒ Verify all employee payroll data for employees' W2s including ex-pat allowances, any additional cash or non-cash incentives.
- ⇒ Agree on the effective date for any bonus payments and salary adjustments and coordinate in advance with payroll.
- ⇒ Plan for the distribution of W-2s to all employees by January 31.
- ⇒ Determine training needs for the coming year. Be sure to comply with the requirements for conducting the Mandatory Harassment Training for all employees.
- ⇒ Remind employees to submit 2011 FSA claims for eligible medical and dependent care expenses by the due date.
- ⇒ Conduct an HR audit. Determine that your company's policies are in compliance with federal and state employment laws. Review and update your employee handbook.
- ⇒ Implement retention policies for your records. Retain documents only as long as legally required.
- ⇒ Remind employees to adjust Form W-4 withholding information if applicable.



NY STATE WAGE & PROTECTION ACT

The New York State Wage Theft Prevention Act, effective April 9, 2011, was designed to give greater protection to workers. Employers must now communicate pay rates and any changes to the employees IN WRITING. All New York State private sector employees must receive INITIAL statements between Jan. 1 and Feb. 1 of 2012. For more information on compliance with this law, please contact AHA for assistance.