LBAEE
August 2021 News

Your LBAEE representatives are currently meeting with the City to discuss repopulation efforts and the new vaccination protocols. If you have any comments or concerns, please forward them to your group director for review asap.

Also, the Board did not receive a nomination for the Group F (Fire & Code Enforcement) Director position. If you are interested in volunteering for this very important role, please send an email to kara@cityemployees.net for consideration.

Health Insurance Costs Are Rising Again!
Here's What Your Employee Organization Can Do About It

In what is, perhaps, a sign that life is coming back to some semblance of a pre-pandemic normal, health insurance companies are reverting to a long-established pre-pandemic trend of annually increasing costs in 2022 for employer-sponsored medical insurance. For example, last month, CalPERS – one of the nation's largest medical insurance providers – approved proposed rates for next year's plans. On average, prices will increase by 5.68% for all preferred provider organization (PPO) and health maintenance organization (HMO) plans that CalPERS offers. In addition, a recent study by Price Waterhouse Cooper's (PWC) Health Research Institute (HRI) projects a 6.5% increase in 2022. According to that study, healthcare spending is expected to return to pre-pandemic baselines with some adjustments to account for the pandemic's persistent effects. This month, we look briefly at rising medical costs and what your Association can do to help mitigate the impact any proposed changes will have on members.

<u>CalPERS Premium Increases</u>: CalPERS provides health insurance for more than 1.5 million people, including about 740,000 public employees and retirees and about 770,000 dependents. CalPERS recently announced health care premiums for 2022. CalPERS members can change health plans later this fall during open enrollment (September 20 to October 15). The new premiums will take effect January 1, 2022. Rates vary based on region. Detailed information on premiums for each region are on the CalPERS website: https://www.calpers.ca.gov/page/active-members/health-benefits/plans-and-rates

The overall average premium increase is 5.68%, according to a 2022 Health Plan Rate Renewal report from Marta Green, Chief of CalPERS Health Plan Research and Administration Division, dated June 15, 2021. This reflects adjustments made by the CalPERS Health Care Fund (HCF) that are designed to smooth the increases across the plans to prevent large swings in enrollment from one year to the next. The report also compares the CalPERS rate increases – 4.83% for HMOs and 8.31% for PPOs – with national healthcare pricing trend benchmarks of 7.67% for HMOs and 7.76% for PPOs.

But the headline number is a bit misleading. Some plans, including the popular PPO plans that many public sector workers enroll in, are going up more. For example, PERS Choice is going up 11%, and PERS Select is going up almost 23%, while PERS Care is going down 15%, partly due to changes in the plan design. Others, such as the popular HMO plans – Kaiser, Blue Shield Access+, and Anthem Traditional – are not going up as much or are even going down. For example, Anthem Traditional is going down 1.26%, Blue Shield Access+ is going down nearly 4%, and Kaiser is holding steady at about a 5.65% increase. These figures are all with the HCF adjustments as mentioned above. Without the adjustments, prices are set to increase by 6.85% for all HMOs and PPOs, which is more closely aligned with projected national trends, like the 6.5% figure in the PWC HRI study.

There are also significant changes to plan designs compared to previous years. The PPO plans formerly known as PERS Select, PERS Choice and PERS Care will be consolidated into two plans. PERS Select will become PERS Gold, and the Choice and Care plans will be combined into PERS Platinum. This is one reason why PERS Select is going up nearly 23% (about $120 per month for a single person) while PERS Care is going down 15%.

CalPERS is implementing a new rate-setting system which, officials say, will gradually stabilize prices and align prices more closely with a plan's value. The CalPERS Board approved the new system last year on the recommendation of health insurance experts, who said they needed to make changes to save three of its best plans. Those plans – Anthem HMO Traditional, Blue Shield Access+, and PERS Care – attract people who spend the most on medical treatment. As a result, insurers kept raising premiums to cover costs. The fear was that this would drive healthy people away from the plans, prompting still further price hikes. Green told the Board last year that this pattern, known as a "death spiral," would have made these plans unsustainable. The new rate-setting plan partly redistributes premium cost increases from plans with higher health risk to those with lower risk. Green said prices will increase again in 2023 and then begin to stabilize. "You'll see a leveling off of all of the products," she said in a June 2021 Board meeting.

CalPERS negotiates aggressively with insurers. They know that many members often must absorb the increased costs entirely out of their own pocket. While rates tend to reflect the current state of the health care market, CalPERS expects health insurance companies to take decisive action to keep costs down. CalPERS leverages its large pool of members to try and hold insurance companies accountable and keep costs transparent. Premium increases generally stem from the costs of medical care exceeding premium revenue, rather than an overall increase in usage. Despite everyone's efforts to control costs, the cost trend still outpaces general inflation.

Price Waterhouse Study: The HRI study projects a 6.5% medical cost trend in 2022. HRI defines the medical cost trend as the projected increase in the cost to treat patients from one year to the next, assuming benefits remain the same. Typically, spending data from the prior year is used as an input in the projection. For 2021 and 2022, the medical cost trend is the projected percentage increase over the prior year's spending, with the effects of the pandemic removed from the prior year's spending. PWC projects an increase in utilization and overall healthcare spending in 2022 due to: (1) the return of some care that was deferred during the pandemic; (2) the ongoing costs of COVID-19; (3) increased mental health and substance abuse issues; and (4) worsening population health overall.

HRI said the amount employers spent on healthcare in 2020 was lower than expected, in large part because people deferred care due to the pandemic. Some of this will rebound in 2022, driving up utilization rates above average. HRI says the costs for testing for COVID-19, treating patients, and administering vaccines will also continue into 2022, and investments to increase readiness for the next pandemic – such as structural changes with supply chains, staffing, and PPE and other infrastructure – will inflate costs further.

In addition, HRI says the pandemic substantially increased demand for mental health services. They project this increased demand to continue in 2022, and along with higher levels of substance abuse, will keep costs elevated. HRI says that poor pandemic-era health behaviors – such as lack of exercise, poor nutrition, and increased smoking – may lead to deterioration in health and increase spending above prior trends.

Another major factor behind increased utilization is technology. HRI projects that providers will continue investing in mobile-apps, virtual care, client portals, data analytics, and customer relationship tools to improve care and expand capacity to treat more patients. They found that over 75% of consumers with employer-based insurance said they were willing to chat online through a provider's website or use a doctor through a mobile app. HRI says these investments may drive healthcare costs down in the long run but increase prices in the near term.

There is some good news! One factor driving costs down is that employers have long nudged workers to lower-cost care in recent years through lower copays or coinsurance and other benefit and network redesigns. As a result, workers became more adept at shopping around. For example, millions of consumers are now familiar with telehealth due to COVID-19. These shifts in consumer behavior should reduce spending going forward. Their research indicates that 77% of clinicians find that new non-traditional care venues, including retail clinics, concierge medicine services, and on-demand telehealth are either maintaining or improving patient health outcomes. The share of patients using health settings outside the traditional doctor's office or hospital soared during the pandemic. The hospital's emergency room (ER) has now become the last resort, deflating ER utilization, which can significantly bend the cost curve down. HRI anticipates that some ER visits may never return to pre-pandemic levels. Moreover, investments in automating administrative functions are lowering overhead costs and the growing use of cloud services reduces the need for physical space and other fixed assets.

Another positive trend is that, on average, insurance covers a larger share of retail prescription drug spending than a decade ago, and consumers' share has leveled off in recent years. Another good development is the No Surprises Act, which takes effect January 1, 2022. The Act is supposed to stop providers from balance billing consumers. This practice had often left consumers to pay costs above the amount that insurance companies had agreed to pay. But how it will affect future premiums is uncertain.

<u>What Your Employee Organization Can Do?</u> The central question – especially during MOU bargaining and open enrollment – is how to absorb the increased costs for medical care. For agencies that do not participate in CalPERS medical, one common strategy that employers have used to shift more costs to workers is to gradually water-down the plans so that employees absorb a greater portion of health care costs when they get care. This is generally done through higher deductibles, increased out-of-pocket maximums, or changing co-insurance percentages. The result is that employees end up paying more for the care they receive. Employers that use this approach hope it will ultimately help keep premium increases in check, but sadly, it sometimes means that workers forego, or delay, needed medical care. Especially as you head into open enrollment, it is important for your employee organization to review in detail any proposed plan design changes to ensure they are quality health care plans. Do not just focus on the overall premium increase. Be sure to look at whether the plan changes pass cost increases along to individual members who use the plan. Depending on the size of any premium increases, it may be better for the employee organization to accept higher premiums than to dilute the quality of the plans, which shifts any cost increases to those who can least absorb it.

Another way employers try to spread costs is to have employees pay a greater portion of the premium. Your employee organization will want to push back if that is the case. For example, suppose the employer currently contributes a flat dollar amount to a cafeteria plan. In that case, your employee organization can try to negotiate into the next labor contract automatic increases in the employer contribution to the cafeteria allowance to account for anticipated premium increases. This may be an annual flat dollar amount increase, or it could be based on a percentage of the overall premium increase. Either way, it is best to look at what plans most employees enroll in. Use the cost increases for those plans as the benchmark for any employer increase in the cafeteria allowance. Another option is to propose that the employer pay a percentage of the overall premium. For example, the employer pays 80% of the premium and the employee pays 20%. This way, the employer is automatically absorbing 80% of any premium increase each year.

Yet another problem is when the costs for coverage for dependents goes up faster than for employee-only coverage. As a result, employees who need to cover dependents end up devoting much more of their paycheck towards rising health insurance premiums. In some cases, employees who elect to cover just themselves or who opt-out of the medical plan altogether do not see any paycheck deduction and may even get cash back. This may seem fair in theory. For example, every employee receives the same dollar contribution from the employer, regardless of their situation. But the effect is often that employees with dependents end up paying a disproportionate share of the total premium. The employee organization might consider proposing that the employer contribute an additional contribution, but only for those who enroll dependents.

Regardless of how your employee organization chooses to approach it, the goal is for the employer to absorb their fair share of any future medical cost increases without sacrificing the quality of the current medical plans. Employees should thoroughly review and understand their options during open enrollment. The employee organization – both through MOU bargaining and perhaps even through a joint labor-management healthcare committee – should review any medical plan changes as well as premium increases. Work with your professional staff to identify the solution that will work best for the members, based on the benefit you currently have. Your employee organization really can make a significant difference in the quality of your medical plan and how much you pay for the care you receive!

Heat Illness Prevention

On May 27, 2021, the U.S. Department of Labor's blog published a "Best Practices on Preventing Heat Illness at Work." The best practices are designed to help employers reduce the risk of heat related illness for the workforce as we head deep into the summer months. Here are the Labor Department's suggestions:

Did You Know?

Train All Workers. Employers should train supervisors and workers on how to control and recognize heat hazards. This includes first aid.

Follow the 20% Rule. On a worker's first day, no more than 20% of the duration of their shift should be at full intensity in the heat. The duration of time at full intensity should be increased by no more than 20% a day until workers are used to working in the heat.

Remember These Three Words: "Water. Rest. Shade." Workers should drink 1 cup of water every 20 minutes while working in the heat to stay hydrated. When the temperature is high, employers should make sure workers take frequent rest breaks in shaded, cool, or air-conditioned areas to recover from the heat.

Workers New to the Job are at Higher Risk. Workers who are new or returning to working in warm or hot environments need more time to adapt. More than 75% of heat-related fatalities occur during a worker's first week, which is why "acclimatization" – the process of building resistance to increased temperatures – is so important. Learn how to protect new workers from heat-related illness and monitor them until they are acclimated.

Hazardous Heat Exposure Can Happen Indoors or Outdoors. Though heat stress is typically related to outdoor work environments, and construction workers account for about one-third of heat-related deaths, workers in hot indoor environments like kitchens, laundries, warehouses and electrical utilities are also at risk.

Engineering Controls and Modified Work Practices Can Reduce the Risk of Heat Illness. Consider reducing physical activity as much as possible by planning for the work ahead and rotating job functions among workers to help minimize exertion.

If you encounter unsafe heat conditions, tell your employer and if nothing changes, contact your professional staff. You can also reach OSHA at 1-800-321-6742 (OSHA).

News Release - CPI Increases!

The U.S. Department of Labor, Bureau of Labor Statistics, publishes monthly consumer price index figures that look back over a rolling 12-month period to measure inflation.

5.4% - CPI for All Urban Consumers (CPI-U) Nationally

5.1% - CPI-U for the West Region

4.0% - CPI-U for the Los Angeles Area

3.2% - CPI-U for San Francisco Bay Area

5.9% - CPI-U for the Riverside Area (from May)

5.3% - CPI-U for San Diego Area (from May)

Questions & Answers about Your Job

Each month we receive dozens of questions about your rights on the job. The following are some GENERAL answers. If you have a specific problem, talk to your professional staff.

Question: We have a co-worker who is off work excessively – 18 days since the beginning of this year! It has placed an undue and increased work burden on the rest of us in our workgroup. There have been several days where there have been just two of us, and a few where there was only one of us, to run the entire Division including our front lobby. Management does not seem to be addressing this. Is there anything that can be done about this co-worker?

Answer: There probably is nothing that can be done about this co-worker, particularly if they are on protected leave. The California Family Rights Act (CFRA) and Federal Family Medical Leave Act (FMLA) allows for up to 12 weeks of job protected leave, and your co-worker may qualify for an even longer period under California's Fair Employment and Housing Act (FEHA). Eighteen days over six months is a lot of time off, but still well within the legally protected limits. CFRA and FMLA allow for leave to be taken intermittently. It is a nice benefit for workers who need time off, but as you point out, it can have operational effects on fellow co-workers.

Staff shortage and its impact on employees is a real issue that has only gotten worse in many places over the last year. You raise legitimate concerns about how the Division has handled work responsibilities given the absences. Whether this is actionable may depend on if the increased workload causes you to miss breaks or lunch periods, repeatedly prevents you from taking time off, results in working additional hours without pay, or requires that you work beyond the scope of your assigned classification. Ultimately, the issue is that your department is so understaffed that one person using protected leave ends up adversely affecting everyone else. The focus should be on the impact it has on you and your co-workers, however, not on the co-worker using leave time.

You might also consider sharing with your supervisor (in writing) how this affects your ability to complete all your regularly assigned tasks in a timely fashion. Often people assume their supervisor knows more about their day-to-day workflow than they do.

If there is not enough time in the day to get everything done, your supervisor can prioritize what order the work should be done. You should complete those tasks first, within the limits of your normal shift, unless directed to work overtime. Sometimes making management aware of the situation and reminding them there are only so many work hours in a day can make all the difference. Contact professional staff if you need help addressing this with management.

Question: We just started to go back to work physically, one day a week, with staff staggered on Tuesday through Thursday. My child was sick prior to the day that I was supposed to go into work. So, I called out sick on the day that I was supposed to go in but told my supervisor that I could still work remotely. I was told that I could not work remotely and needed to take sick leave. That does not sound right to me, but I understand that people can abuse the system. Can they require that I take sick leave even if I am able to work remotely? Has this come up before in any other jurisdictions?

Answer: Management can force you to use sick leave or physically report to work unless the ability to choose when to telework has been negotiated or is allowed for by an employer's policy. It does come up in other jurisdictions, but in most telework policies, management reserves the right to decide when telework is appropriate.

There are several relatively new issues arising from this post-pandemic return to work era. This being one of the more frustrating ones. For the most part, remote work has proved to be more viable in terms of productivity than even some of its strongest proponents had imagined. So, it is hard to understand why some are not keeping an open mind to more telework as a path forward.

Your situation is an example of when it might be wise for management to allow you to telework. Otherwise, you may choose to use sick leave, which will result in lost productivity – and by extension, an avoidable temporary reduction in public service. But that is, by and large, management's judgment to make. By contrast, it is your right to choose whether to report to work or use sick time to stay home and care for your child.

You might consider raising this issue with your employee organization. Most telework policies do not allow the employee the option to telework in lieu of using sick leave to care for a family member, but this can be proposed in MOU negotiations. The employer will want to retain discretion, but with the help of professional staff, the organization may be able to negotiate a policy that reflects a better balance of when telework is appropriate.

Question: I have FMLA to care for my father, and I was late several times because of issues that came up with him. They have written me up because of this, and I was denied a raise because of the write-ups. Is this legal?

Answer: It depends on whether your tardiness and absences are protected by the FMLA. If so, then no, it is not legal, and the discipline should be reversed, and your raise should also be reinstated. Contact professional staff for assistance.

Whether or not your tardiness or absences are protected under the FMLA depends on several factors. The FMLA regulations (29 C.F.R. § 825.303) say that when the approximate timing of the need for leave is not foreseeable, an employee must provide notice to the employer as soon as practicable. Absent unusual circumstances, such as an unforeseen emergency, an employee must comply with the employer's usual and customary notice and procedural requirements for requesting leave.

So, for example, if you complied with your employer's policy on reporting tardiness, or you called in as soon as practicable and identified that your tardiness was FMLA-related, then you are protected. You are also protected if there was a genuine emergency that prevented you from providing the usual and customary notice of your need for leave, and you gave your employer notice as soon as practicable afterwards.

It may also depend on if the FMLA letter you have on file covers intermittent leave or partial day usage. This is common, especially when caring for a family member with a serious medical condition. If not, you should have your father's medical provider update the FMLA certification that is on file with your employer. That way, it cannot be used against you going forward.

Question: I work in the police department, and we are a 24/7 operation. My regularly scheduled shifts are Monday through Thursday with my days off on Friday, Saturday, and Sunday. I also serve on standby. Our standby pay section of the MOU says: "Stand-by pay for employees required to remain available for work shall be two hours pay on weekdays and three hours pay on weekends." My supervisors interpret this as only two hours pay on Friday, which is my regular day off. Shouldn't I be getting three hours pay for Friday? Is this something I can get clarified now or do I have to wait until the next MOU negotiations?

Answer: If the City interprets this language literally, your regular day off would not be included for the three hours unless it falls on the traditional weekend days of Saturday or Sunday. But it might depend on how the City has previously applied that language. For example, if the City has a past practice of consistently providing three hours pay to other employees when their regular day off falls on a weekday, then you may have a winning argument that you should receive the three hours pay for standing by on Fridays (your regular day off), too.

In any event, be sure to let your employee organization know. They may know how this language has been applied, or they may know of other workers who share a similar concern. They can also add it to the list of items to propose in the next MOU.

As for changing the wording now, your employee organization can ask to modify it by a side letter agreement, but the City can insist that it be brought up in the next MOU negotiation.

Question: I am at my top step and want a merit increase, what do I do if I am topped out?

Answer: Salary ranges with built-in advancement is an excellent way to structure compensation, as it helps ensure employees have a clear and equitable path to advance within their job classification as they gain more experience. But thankfully, base salary advancement is not the only way to recognize good work. For example, some MOUs provide for annual cost of living adjustments (which increases the top step of the range by a certain percentage each year). MOUs may also include other perks, such as longevity pay, special premium pays like certification and educational incentive pay, or a merit-pay program that provides increases for employees who are at the top step and who exceed performance expectations. Your Association can also try to negotiate for additional steps in the pay schedule the next time your MOU expires. You might also let your management know you are interested in promotional opportunities in your career ladder, or cross-training in related fields.