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New Jersey's shopping malls are back and customers seem to like what the operators have done with the properties.
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MURKY OUTLOOK

The governor wants to fill a budget shortfall with borrowed money. But a legal challenge could send the plan and its architects back to the drawing board. Page 5

PHOTO BY AARON HOUSTON

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Spotlight: Employee benefits

How human resources professionals can provide competitive packages even during the COVID-19 pandemic. **Page 7**

HOW TO REACH US

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MORE HELP

The New Jersey Entrepreneur Initiative will provide resources for startups and small businesses

BY LINDA LINDNER
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As New Jersey's unemployment rate continues to skyrocket amid the pandemic, more than half of New Jersey businesses anticipate not being profitable at pre-COVID levels for up to a year, according to a survey conducted by New Jersey Business & Industry Association. This scenario is leaving individuals to look for income sources. And many are coming up with new business ideas or expanding their side gigs.

It's not always easy to put an idea to work. More than ever, New Jersey's entrepreneurs and aspiring small business owners need the knowledge, tools and support necessary to overcome the common struggles small businesses face.

The more entrepreneurs who attain financial stability for themselves and their families also help position New Jersey for long-term economic growth. Toward those ends, Linda Wellbrock -- founder of Leading Women Entrepreneurs and Force for Change NJ -- has teamed up with successful entrepreneur and business strategist Michael Dermer, the founder of The Lonely Entrepreneur, a nonprofit 501(c)(3) corporation dedicated to helping New Jersey's entrepreneurs turn their passion into success.

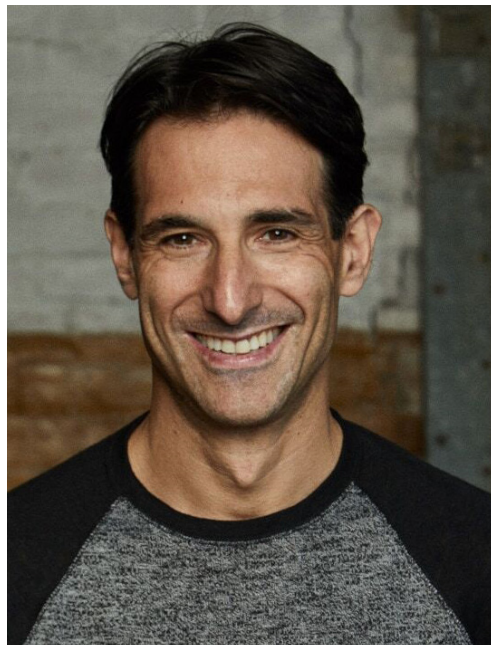
Together, Wellbrock and Dermer created the New Jersey Entrepreneur Initiative to help 10,000-plus entrepreneurs in the state "overcome the entrepreneurial struggle" and significantly increase their chances for success, while making a positive impact on New Jersey's overall economy.

Wellbrock said this effort is probably one of the most important initiatives of her career. "I am excited to further my mission to empower New Jersey's most deserving entrepreneurs," said Wellbrock during an invitation-only Zoom announcement.

NJEI hopes to bring together a broad-based coalition of statewide leaders, business decision-makers, philanthropists and influencers as sponsors to arm thousands of struggling entrepreneurs and small business owners with free access to The Lonely Entrepreneur Learning Community.

The Learning Center is a comprehensive "one-stop" system that is now available to give entrepreneurs and small business owners the resources they need at no charge. There are over 300 online, digestible, and organized teaching vignettes available with hundreds of business templates and multiple ways for budding entrepreneurs to get the answers they need -- everything from how to set up business to an entrepreneurial survival guide.


Wellbrock


Dermer

Additionally, there is continuing support via interactive weekly coaching and an online community, as well as 24/7 access from any desktop or mobile device.

"For those visionary businesses, corporations and entities who support these deserving entrepreneurs by giving them an economic lifeline, the rewards can be even more far reaching and significant," Wellbrock said. "Not only will these companies be able to establish direct connections with the next generation of thriving New Jersey business builders, but perhaps even more importantly, these entities will become known to their consumers, clients and benefactors as authentic and positive influencers in the recovery and growth of New Jersey's economy."

Wellbrock and Dermer have created a team of "New Jersey trailblazers to advise and spearhead the formation of The New Jersey Entrepreneurship Initiative." The members are:

- Lyneir Richardson, a champion of the Black community for more than 20 years. Richardson served as the economic development lead for U.S. Sen. Cory Booker and Newark Mayor Ras Baraka, and he currently leads The Rutgers Center for Urban Economic Development and is Assistant Professor of Professional Practice at Rutgers Business School.
- Tara Gilvar the founder of the New Jersey grassroots women's empowerment organization B.I.G. (Believeinspiregrow.com). Gilvar creates safe and supportive environments for thousands of entrepreneurial women in communities throughout the state and offers them the inspiration, community and tools they need to move their personal and professional goals forward.
- Yvette Donado a leader and valued advocate in the state's Hispanic community. Donado is a graduate of Harvard Business School and former C-Suite business executive at ETS. She is passionate in her mission to bring community and business leaders together to effect positive change, particularly for those living and working in New Jersey's underserved communities.

Early supporters of NJEI include New Jersey Business & Industry Association; the African American Chamber of Commerce; Junior Achievement of New Jersey; HISPA (Hispanics Inspiring Students' Performance and Achievement); and The Statewide Hispanic Chamber of Commerce of NJ.

A range of statewide institutions and businesses are expected to join the effort in the weeks and months ahead. In supporting the entrepreneurs, participants can enhance their own brands with current and potential customers and provide access to potential clients. Involvement also demonstrates social responsibility efforts, and it can drive economic development by bringing new services to a community.

"It is truly an honor to partner with New Jersey's finest to support the lifeblood of the state's economy, our entrepreneurs and small business owners," Dermer said. "By bringing together this coalition of committed and passionate leaders to help distribute these business building -- and business saving --resources, we are well-positioned to help the people of New Jersey not just recover, but thrive."

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Cherry Hill Mall - PREIT

CLEANING UP

New Jersey shoppers return to malls in droves as operators focus on safety

BY GABRIELLE SAULSBERY
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The doors of indoor malls flew open in Texas on May 1, giving the state's retailers nearly two months of sales activity before New Jersey properties were permitted to do the same. Shoppers returned, but the scenes today within the malls are different than the timing of the reopenings might indicate. Mall attendance in New Jersey is now higher than in Texas, and economist Bruce Mizrach suggests that the tipping of the scale has more to do with consumer comfort than government permission.

Mizrach

Mizrach, a professor of economics at Rutgers who focuses on market microstructure and behavioral finance, examined adjusted SafeGraph data on 31 malls in New Jersey and 46 in Texas and found that attendance on the date that indoor malls reopened in New Jersey was 56,157 while in Texas it was 55,141, despite being 20 percent higher the week before.

"You can open stores, bars, et cetera, but if people perceive it as a dangerous, they're not going to go whether the government says they can or not," Mizrach said. "When the New Jersey malls shut down in March, there were 267 [COVID-19] cases that week. In the time we evaluated in Texas, there were 46,000 that week and the malls are still open.

"But people aren't going – so with the surge, the business dropped down to where they were when they reopened back in May. In June/July 2020, you'll see New Jersey malls are in better shape compared to a year ago than the Texas malls are," Mizrach said.

SafeGraph draws data from more than 45 million cellphone users across the U.S. It anonymously tallies visits to malls, restaurants, and other points of interest using the location the phones register. Accuracy fluctuates depending on whether cellphone users' location services are on, but not by much—between 3 feet and 50 feet of accuracy—so although the data can't tell researchers which stores they're at, they can at least see that they're at the mall.

According to SafeGraph, overall mall visits —including strip malls —were up 19.2 percent during the first week of reopening, and some large indoor shopping malls in central and northern Jersey had gangbusters traffic compared to the days of their mandated closures: Bridgewater Commons brought in 110 percent more people from June 29 to July 5 than the previous week. In the same week, Garden State Plaza brought in 290 percent more people, and Menlo Park Mall brought in 537 percent more people than the previous week.

Five malls, including Hamilton strip mall Hamilton Marketplace and the mid-size Moorestown Mall, had a slight decline in visits. And overall, visits were still down 34 percent year over year. But for the same time in Texas—again, with malls wide open—visits are down 55 percent, and only 4 percent up from what they were upon reopening on May 1.

All the progress Texan malls made was undone. One lesson, Mizrach said, is that folks are making their own public health decisions. "It shows that not only is premature opening a poor choice from a public health standpoint, it's a poor choice from an economic standpoint," he explained.

Cherry Hill Mall's attendance is approximately 76 percent of what it was at this time last year, according to Joseph Coradino, chairman and CEO of PREIT, which operates the mall and others in Pennsylvania, Maryland, and Michigan. It's steadily improving as more stores open.

"We are seeing that shoppers are purposeful and if they come, they intend to purchase, so while trip visits are maybe not yet at the same level as they had been, retailers are reporting strong sales and conversion rates across our portfolio, particularly in the early stages of reopening," Coradino told NJBIZ via email.

To cultivate consumer confidence, PREIT is putting safety at the forefront of the customer experience.

"We are taking every precaution possible including offering free masks, increasing outside air exchanges, increased sanitizing efforts and sanitizing stations throughout the property. Additionally, our Mall2Go contactless pickup option is here to stay," he said.

With Mall2Go, customers place orders with one of 22 participating retailers and five restaurants and pick it up contact-free from designated spots in the mall's parking deck.

At the Mall at Short Hills, traffic has been "terrific" since reopening, said Marketing & Sponsorship Director Janet Cesario, citing turnout at or above normal levels for this time of year. The property is even seeing customers who had never previously shopped at Short Hills.

Cesario, like Coradino, highlighted cleanliness as a leading way to instill consumer confidence. "To help people feel comfortable shopping at malls, landlords must take the care to install protocols that minimize risk for their shoppers and employees," she said.

In addition to sanitizing high-touch surfaces, enforcing rules about mask-wearing and social distancing, and closing off areas where congregation may occur, the Mall at Short Hills is keeping its doors propped open for better airflow and changing its HVAC filters throughout the property. Several mall tenants have a curbside pickup program as well.

If the decline in Texas mall attendance indicated less consumer comfort, as Mizrach believes, the heightened focus on safety is a boon to New Jersey's own.

"The economist definitely puts the consumer at the center of his or her analysis. We see consumers trying to make informed decisions, and we know that they're trying to inform themselves," Mizrach said. "Everyone over the age of 40 is keeping themselves informed about the COVID trend in their neighborhood, and we see quick changes to consumer behavior to the COVID rates in their environment. We see it in Texas. We see states shut down on a different schedule … we saw people stop shopping in places where malls hadn't shut down because they were fearful of the disease.

"There's some business in your neighborhood that provides whatever service – dry cleaning. If the workers aren't wearing masks, you're going to take your business somewhere else. People are definitely informed about COVID, and if they're given the choice, they'll pick the place that's least likely to pass them the infection," Mizrach said.

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BORROWING TIME

A legal challenge to the governor's planned bond issue could force the administration to get more creative with the budget

BY DANIEL J. MUNOZ
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Whether Gov. Phil Murphy likes it or not, his bonding plans could stand as one of his lasting legacies. If the scheme survives a legal challenge, lawmakers and the governor will be able to borrow up to $9.9 billion through June of next year, in order to make up for lost tax revenue amid the pandemic-induced economic downturn. The state could be paying that debt for years to come.


Murphy

A large portion of the borrowing would come out of a Federal Reserve program designed to help state governments whose finances have cratered. Business closures and job losses cost New Jersey $10 billion in tax revenue.

The non-partisan Pew Charitable Trusts on July 14 estimated that the state would borrow up to $4.5 billion with a three-year repayment plan at 3.8 percent interest, or at 2.6 percent under the plan Murphy supports.

But another sizable chunk would be borrowed from the private markets through the issuance of general obligation bonds and could take decades to pay back.

According to a July 21 analysis from the non-partisan Office of Legislative Services -- an arm of the state Legislature -- for every $1 billion borrowed, assuming a 20-year repayment plan for the general bonds and interest rates between 4 percent and 6 percent, the interest would total between $462 million and $730 million.

That would mean annual payments as high as $86 million a year, or as low as $73 million a year, OLS suggested.

Legislative Republicans, who sued on July 16 to block the plan, were scheduled to file their briefs with the state Supreme Court on July 24. The defendants -- Gov. Phil Murphy and his administration -- have until July 31 to respond. Oral arguments are slated for Aug. 5.

The GOP argues that the state cannot use bond proceeds as general revenue. Any debt that surpasses 1 percent of the total spending in a fiscal year would need voter approval. "We can't pass this bill," Assemblyman Jay Webber, R-26th District, said during the July 16 Assembly debate on the measure. "On the first day of every legislature we take an oath," he added. "The Constitution of the State of New Jersey does not allow you to do what you want to do. It does not allow you to borrow for operating expenses."

But the measure that Murphy signed allows the state to sidestep the voter approval process, by using emergency powers to deal with a major natural disaster, also referred to as an "act of god."

The Republican lawsuit cites the landmark 2004 Supreme Court ruling in Lance v. McGreevey. At issue in that case was whether then-Gov. Jim McGreevey could use bond money as "revenue" to balance the budget. The Republican leader at the time, Leonard Lance -- later a GOP Congressman -- joined fellow Republicans former Sen. Joseph Kyrillos and former Assemblyman Alex DeCroce who argued that the move ran afoul of the state constitution. Webber helped write the briefs in the case.

"I do not want the exception to swallow the rule, meaning that the exception for an 'act of god' I don't think, should be at the level of $10 billion," Lance said in an interview.

"I recognize the differences," Lance said, between 2004 and the current financial calamity facing the governor. "If the Supreme Court permits this, I hope it permits it only temporarily."

The Lance decision effectively handed victory to both sides. The justices found that the plaintiffs were correct in that the plan did not meet the legal definition of "revenue" but they stipulated that the ruling was prospective only, allowing the borrowing to proceed.

"New things are popping up here," explained Marc Pfeiffer, a municipal finance expert and a crafter of several of the state Legislature's "Path to Progress" proposals on how local governments could save money and cut property taxes. "That's going to create some really different opinions of how things are being done."

SPENDING PLANS

Murphy has not outlined how the borrowed funds would be used. And it's not clear whether any of the money would be spent through the end of the three-month budget extension on Sept. 30, or just for the new fiscal year which runs between Oct. 1 and June 30, 2021. Murphy said on July 17 that all signs point toward the latter, because preparations for borrowing could take up to 12 weeks, running beyond the expiration of the current budget.

The authorization lawmakers sent him would allow the state to issue up to $2.7 billion worth of bonds through Sept. 30, and up to $7.2 billion more between Oct. 1 and June 30, 2021.

"If they can get legislative leaders to agree … they might do it very short-term if they think they're going to get federal funds," said David Hitchcock, an analyst at the Wall Street credit rating agency S&P Global. That is, "short-term, if you're going to get federal funds in two months, maybe."

State lawmakers have indicated that it's too early to tell just what expenses the bonding would finance, though they have general, broad ideas. A four-member legislative committee would have to approve any borrowing the Murphy administration wants.

Senate President Stephen Sweeney, D-3rd District, and Assembly Speaker Craig Coughlin, D-19th District, are likely to sit on the panel along with Assembly Budget Chair Eliana Pintor-Marin, D-29th District, and Senate Budget Chair Paul Sarlo, D-36th District.

Pintor-Marin suggested that some proceeds could be used for the Department of Human Services' food stamps program, as well as equipment and supplies for the state Health Department to bolster the response to COVID-19. She also suggested cash infusions for the state Labor Department's overloaded unemployment system.

"If we don't get the funding, obviously we're going to have to raise taxes, obviously we're going to have to cut substantially," Pintor-Marin said in an interview.

Putting it before voters in a referendum during the Nov. 3 general election could draw out the process where, almost literally, time is money, she warned. "It's going to take a lot longer in order for us to put it on for a referendum, and by the time we would even receive financing, we would already be devastated," she said.

Sweeney said he is still hopeful that U.S. Sen. Bob Menendez, a Democrat, will succeed in his effort to include funds for cash-strapped states in a new federal pandemic relief bill. "That should take some of the pressure off of us," he said.

Illinois is the only other state taking advantage of the Federal Reserve's program, according to Geoffrey Bushwick, another S&P analyst. The option is something of a last resort. New Jersey has roughly $44.4 billion in bonded debt, according to the state Treasury, which costs roughly $4 billion each year to finance. "Other entities have said 'we're not sure we want to go that route,'" Bushwick said.

Sweeney and Sarlo both offered assurances that the state would only borrow as much as needed.

"We're looking at our collections," Sweeney said. "They're better right now than what they were projected to be."

New Jersey will not know exactly how badly the pandemic has damaged its economy and tax coffers until the state Treasury is able to crunch numbers from tax filings submitted ahead of an extended July 15 deadline. Murphy then has until Aug. 25 to present a new budget for the 2021 fiscal year. His $40.9 billion spending plan proposed in February is all but dead and the state is facing a budget shortfall of at least $7 billion.

Compounding that could be another financial hit to the state and its economy from a second wave of COVID-19 that coincides with the fall flu season, with perhaps another $20 billion necessary to prepare for and contain the virus.

A variety of options are still on the table to raise cash, depending on how the legal challenge is resolved. "If the court says no, the question is what will they be saying no about?," Pfeiffer said.

"If the court knocks it down, it'll knock down the $5 billion in permanent spending, and then they'll be able to keep the short-term notes alive," he added. "The short-term borrowing can be refunded, which means turning it into permanent debt if you refund it. If you refund the short-term borrowing with the long-term debt, you've done the same thing."

But such an action could also run into legal problems, he cautioned.

Another option is pay-as-you-go borrowing, Hitchcock said, which can be done without bonding.

He also noted that the act of delaying more than $1 billion in payments until Oct. 1 would allow the state to use other kinds of short-term instruments, known as cash flow notes, which have to be repaid before the end of that fiscal year.

Those payment delays are a critical element of the three-month stop-gap budget that Murphy signed on June 30, but they need to be paid on Oct. 1.

"How are they going to repay" the bonds, Hitchcock asked. "Well the way they do that is you don't pay your bills for a little while and you can build up your cash," he said. "That means you're not paying schools or pension payments or whatever for a period of time."

On Oct. 2, the administration could push off another few billion dollars until July 1, 2021 -- or the start of the 2022 fiscal year, and issue more bonds to repay by June 30, Hitchcock suggested.

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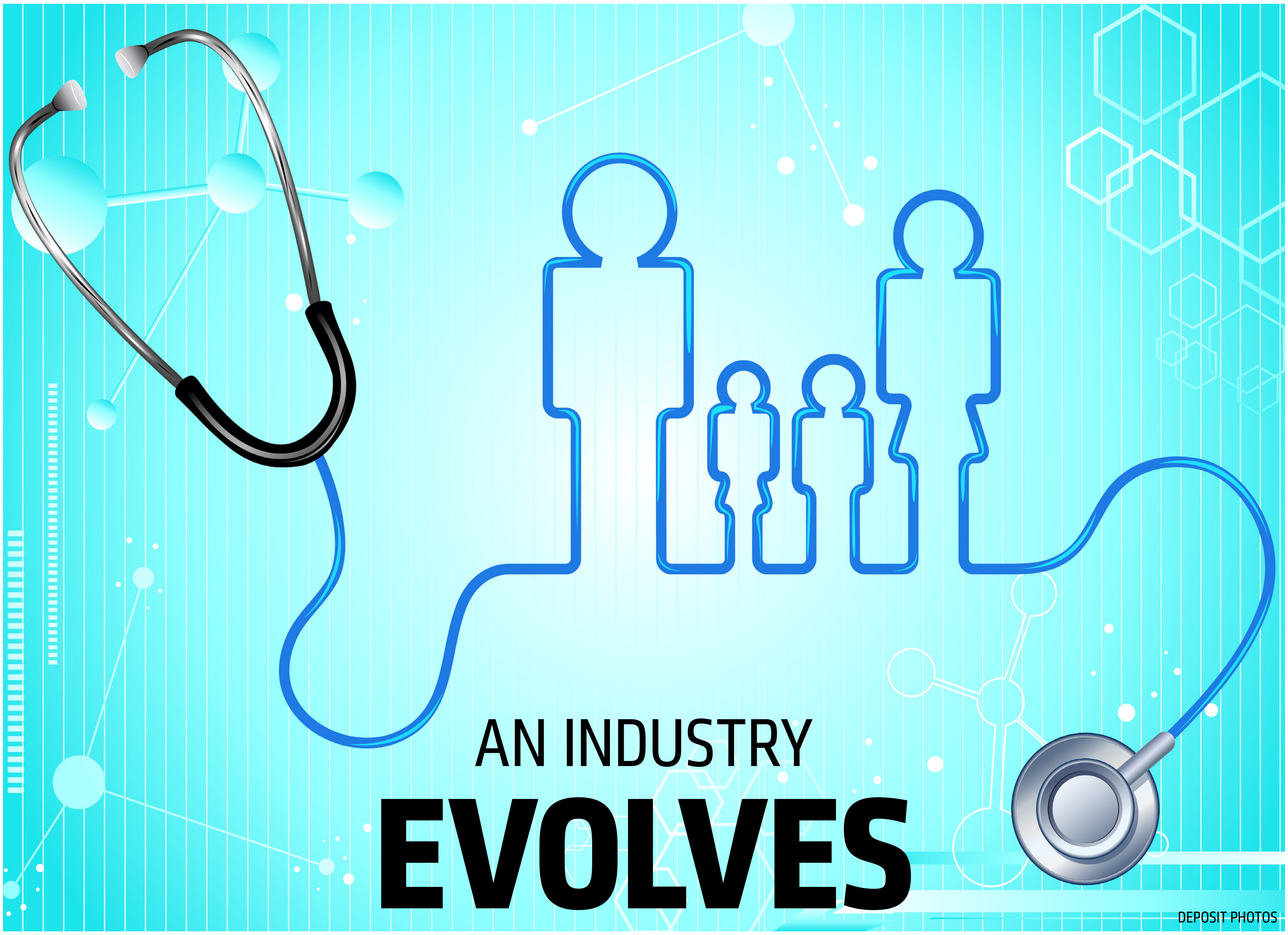
"Health care consumers are increasingly checking deeper and comparing networks..." — Scott Peloquin, CEO of BenefEx



DEPOSIT PHOTOS

Health care economics and other issues spur changes in employee benefits

BY MARTIN DAKS

Even before the COVID-19 pandemic ripped across the globe, economic and other issues were driving changes in businesses' approach to employee health care and other benefits, according to some experts. From stepped-up analytical models to new ways of contracting with providers, the benefits landscape is undergoing seismic shifts.

One ongoing development is a resistance to 'retail' pricing," according to Scott Peloquin, CEO of BenefEx, an employee benefit consulting firm. "Health care consumers are increasingly checking deeper and comparing networks, and are often choosing ones that offer good discounts," he said. "Consumers are paying more attention as an increasing number are paying a percentage of claims costs instead of a fixed-dollar-based copay."


Peloquin

To accommodate this new model, more insurance companies are turning to reference-based pricing payments, he added. "Insurers are engaging third-party independent analysts to check Medicare pricing and are then offering providers a fixed percentage above that price. It generally means lower prices for the consumer, a higher-than Medicare payment to the provider and reduced administrative costs for the insurance company."

Large employers originally embraced this model, said Peloquin, "but as technology made it easier to roll out to low-volume employers, insurers have started to offer the model to smaller businesses, too."

Another change is a resistance to "paying claims based on other people's experience," according to Peloquin. "In New Jersey, by law, many large health insurers base their premiums on 'community rating,' which means that the rates are the same for everyone who purchases the particular individual plan and are not based upon the actual or expected claims history of any particular person. In addition, carriers may not consider the health status of any specific person purchasing an individual plan; so, for instance, there is no special rate for smokers versus non-smokers. Also, carriers do not rate based on gender or where someone lives in New Jersey."

A FEDERAL ALTERNATIVE

But under the federal Employee Retirement Income Security Act of 1974, employers can establish a health care plan with premiums that are based on a company-specific medical underwriting analysis, he added. Although individuals with pre-existing conditions cannot be excluded and are not charged a higher rate individually, their risk factors can be considered in establishing the company's overall premium.

"We advised a four-employee consulting firm that was paying an average of $3,975 per month in total health care premiums in 2018, under the community rating model," Peloquin said. "Then their renewal quote for 2019 was $4,456. We suggested considering an ERISA plan, and the premium was only about $2,900 a month. When they were re-evaluated in 2020, the company's actual claims were lower than actuarially estimated, so it got a refund of about $9,000, which was a pleasant surprise."

The COVID-19 economic downturn is also prompting many companies to adjust their employee retirement

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BENEFITS

CONTINUED FROM PAGE 7

DEPOSIT PHOTOS

plans, according to Charles Rosenberg, a vice president at Intac Actuarial Services Inc. "The government has made it easier for businesses to adopt retirement plans, but at the same time, the slow economy has driven some companies to terminate or modify their 401k Safe Harbor plans mid-year," he said, referring to a kind of regulation-light plan that commits an employer to guarantee a certain contribution to every employee. "Our own company modified our plan. It's a good idea, however, to speak with a benefits consultant or third-party administrator before making any changes," to avoid incurring penalties or otherwise running afoul of retirement plan rules.

Rob Saphow, president of the New Jersey Association of Health Underwriters and owner of Broker on Demand LLC noted that, "Alternative health insurance models— like Professional Employer Organizations — are gaining traction, along with hybrid self-funding arrangements."

Saphow

A PEO basically becomes a "co-employer" with multiple small businesses and may be able to bargain for reduced health care costs by aggregating the employees under one umbrella organization. Under one alternative, a hybrid self-funding model, an employer commits to funding up to a certain level of health care costs, and purchases insurance to cover expenses above the specified amount.

"Another model that's gaining popularity in New Jersey is a Multiple Employer Welfare Arrangement, or MEWA," Saphow said. "That involves a number of employers banding together to achieve economies of scale."

In October 2018, BioNJ announced it agreed to partner with the Affiliated Physicians and Employers Master Trust's existing MEWA. "The new partnership will enable BioNJ to provide high-quality, affordable group health benefits to its member companies and their employees," according to the announcement. In June 2019, the APEMT plan was renamed as the Members Health Plan NJ and, according to BioNJ, "currently services more than 3,800 member companies in NJ from existing associations, currently covering more than 37,000 participants."

THE VIRTUAL WORLD

Colleen Coyle, employee benefits team lead at insurance brokerage and advisory services company Brown & Brown Metro observed that "We are living in a new virtual world as a result of the Covid-19 pandemic."

In April, to accommodate today's socially distanced workplace, Brown & Brown worked with online benefit portal and employee discount marketplace BenefitHub to establish the Brown & Brown Relief Center. "It's a platform that provides our clients' employees access to thousands of consumer products and discounts," Coyle said. "Through the Relief Center website, companies and their current or former employees can access products and services at a discount. We have provided access to anyone interested or in need of services, at https://bbinsrelief.benefithub.com."

Beyond health care, many Brown & Brown Metro clients are trying to offer a variety of benefits to meet benefit needs of their multi-generational staff, according to Brown & Brown Metro President Lou Della Penna Jr. He noted that Baby Boomers often look for certain benefits, but "Gen Xers are interested in salary, advancement and matching 401k benefits, and they are more technology focused, independent and desire work life balance," Della Penna said. "Generation Y appears to be interested in work-life balance, wellness programs and lots of benefit options. Generation Z individuals are interested mentorship and guidance."

One Brown & Brown client, a Monmouth County software company, "has expanded their benefits portfolio every year to meet the needs of their multigenerational employee population," he explained. "This employer's HR team actually negotiated 10 percent off of the monthly rent for staff electing to live in a nearby luxury apartments. The deal included application fee waivers and arrangements for reduced security deposits."

To meet the needs of its own workforce, Brown & Brown recently began offering student loan repayment assistance to employees. "Brown & Brown has partnered with Tuition.io, the leading student loan management platform, to administer the program," he said. "Through this partnership, we have achieved our goal to provide a meaningful and equitable contribution to as many teammates as possible."

Will remote-work requirements spark lawsuits?

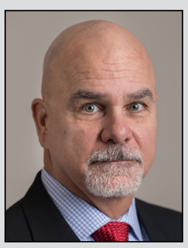
The COVD-19 pandemic has driven lawyers, like many businesses, to operate remotely. But remote-work arrangements may raise a host of legal issues, according to David Koller, a Philadelphia employment attorney with a sizeable number of New Jersey clients.

"Companies will have to revisit, explore and revise their policies," he said. "Issues may arise under 'under the ADA [Americans with Disabilities Act], which requires employers to make 'reasonable accommodations' for employees who require special equipment or other accommodations to successfully get their job done."

Many workplaces have already invested in specialized seating, desks or cubicles or other equipment for employees that fall under the ADA protections, but it may be a whole new ballgame when they're working from home. "The law requires interactive discussions, where the employer and employee engage and … hopefully determine reasonable accommodations."

One client, a 30-year-old woman from Pennsylvania, suffered a stroke and is partially paralyzed, noted Koller. "She works for a large employer, who previously made reasonable accommodations for her in the business' office," he said. "But when the pandemic struck, her employer denied a request to let her work from home on a long-term basis — they claimed she has to be in the office to perform her job. We've filed an EEOC [Equal Employment Opportunity Commission] case on her behalf."

Even though "Technology makes it easier to work from home, employers may have to offer 'reasonable accommodations' for employees who are now working from home on a long-term basis, according to Pat Flanagan, a partner with the law firm Florio Perrucci Steinhardt & Cappelli, LLC. "From what I've been reading, employees who are under the protection of the Americans with Disabilities Act may begin raising issues," he said. "But there's another issue: what happens when employers open up and bring employees back to the workplace? Individuals with underlying medical conditions — or with vulnerable household members — may request work from home arrangements until a cure is found. It's conceivable that could fall under the ADA."



Flanagan

Koller warned that if employees who have been "successfully working from home are then terminated for resisting a back-to-office request, we'd have to review the facts and see if a claim for wrongful termination should be filed."

Recently enacted regulations, like the federal Families First Coronavirus Response Act (FFCRA) may further spur litigation, especially for smaller businesses, he added. The FFCRA, which is effective through Dec. 31, requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19.

"No one knows yet how the law will evolve to handle this new situation," said Koller. "One thing's for sure though — it's going to be a busy time for attorneys."

PRESERVING THE PERKS

How to tighten the belt without choking off benefits

BY MARTIN DAKS

Businesses in New Jersey and elsewhere have been whiplashed by a series of restrictions — and relaxations that are often followed by new restrictions — on their ability to operate. For many companies, the disruptions have had a stifling effect on revenue, forcing them to tighten their fiscal belts. At a time like this it's tempting to pare back employee benefits, but creative business owners may be able to dodge this painful maneuver, according to some experts.

It's no surprise that health care costs are a big target for many "middle market" businesses, or those with 100 to 500 employees, said Joe DiBella, managing director and executive vice president at Conner Strong & Buckelew, an insurance brokerage, employee benefits and risk management consulting firm. "An increasing number of them are moving from fully insured health plans to self-funded ones as more options are being offered," he said. "It used to be that self-funded meant self-insured, but today a greater variety of coverage is available."

One product is stop-loss protection — also known as excess insurance — which provides protection against catastrophic or unpredictable losses. It can be good for employers who want to self-fund their employee benefit plans, but do not want to assume all of the losses that can be incurred, he noted.

There are two basic types, according to DiBella: specific stop-loss and aggregate stop-loss. "Specific stop-loss protects the employer against a high claim on any one individual," he noted. "A 150-employee company, for example, may buy stop-loss to protect against per-employee claims above $25,000. This offers the company some flexibility, since typically a small percentage of employees account for most large claims."

Aggregate stop-loss caps a company's overall losses at a certain dollar amount. DiBella compared it to an umbrella or wrap-around automobile insurance policy that many individuals buy. "Say you're a smaller company with 15 people, and you determine that you're comfortable covering them up to $20,000 apiece, for a total of $300,000 in overall health care claims," he said. "An aggregate stop-loss policy could cap the company's overall exposure at that level."

A KINDER, GENTLER APPROACH

Other strategies aim to reduce costs by encouraging employees to stay healthy. "Some businesses offer reduced premiums to employees, or other incentives aimed at healthier lifestyles for employees and their dependents," he said. "Examples include encouraging gym memberships, annual physical exams, screenings, mammograms and other steps to stay well and to detect potential conditions early on, when it may be easier to treat them."

On a broader scale, population health initiatives are trying to encourage healthy habits though an interdisciplinary, customizable approach. At the company level that can involve identifying employees with chronic conditions like diabetes and asthma and helping them to manage their care in a better way.

"Employees may be offered the opportunity to work with a physician or health coach and become educated about their condition and what they can do to improve it," DiBella said. In 2017, according to the most recent statistics from the federal Centers for Disease Control, the total estimated cost of diagnosed diabetes alone was $327 billion, including $237 billion in direct medical costs and $90 billion in reduced productivity.

FLAT-RATE APPROACH

A company called R-Health offers another model that's designed to rein in health care costs. It charges a monthly flat-rate membership fee that enables members to see primary-care doctors without copays or deductibles, according to Chief Executive Officer and co-founder Mason Reiner.


Reiner

Most of his clients are businesses and other organizations that range from

See PERKS on page 10

DEPOSIT PHOTOS

PERKS

CONTINUED FROM PAGE 9

50 employees "up to large ones with thousands of employees," added Reiner. The roster includes the New Jersey State Health Benefits Program and School Employees' Health Benefits Program.

R-Health's flat-rate fee structure works "because we aren't based on a fee-for-service model," he said. Unlike traditional primary care physicians who are compensated based on the volume of patient visits and procedures, R-Health company doctors and independent practices that he contracts with are on a salary, with additional plus incentive payments for things like patient satisfaction.

"We also avoid the high administrative costs that are incurred when you deal with insurance companies," Reiner noted "A typical practice has four to five FTEs (full-time equivalent) administrative employees per physician, but we only need two per physician."

R-Health offers virtual and other appointments whenever patients need them, according to Reiner. "This includes same-day and next-day appointments for urgent issues, evening hours and weekend availability," he said. "We partner with clients to help their employees to be more effective consumers of health care. Better primary care drives down wasteful utilization and can lead to a 15 percent reduction in overall health care costs."

During this "very challenging time," being responsive to developments can also help a company to stay afloat, potentially avoiding excessive cutbacks, according to Colleen Coyle, employee benefits team lead at insurance brokerage and advisory services company Brown & Brown Metro. "We have seen clients change distribution channels and alter their processes to meet the safety needs of their employees and customers," she said. "We work with a food distributor in South Jersey, and they hired a physician and had every employee tested. They developed a return-to-work strategy before it was a buzz phrase. The company had to remain open, since everyone needs food and the staff needed to return on a daily basis to a safe working environment."

Coyle

Coyle said Brown & Brown has also helped many clients to apply for federal loans. "We believe this legislation was very helpful to many small and mid-size clients. The New Jersey Economic Development Authority is also able to provide emergency aid for small employers with 25 or less employees; home-based businesses and sole proprietorships are also eligible."

During the pandemic, some businesses are "being creative" about employee benefits, noted Charles Rosenberg, a vice president at Intac Actuarial Services Inc. "We work with a successful CPA firm that looked for creative ways to set up retirement plan," he noted. "We're helping them to set up a 401k, and some other plans. We've also seen activity like this continue among some of our other clients, including doctors and other professional service providers."

The elephant in the room: health care costs

Some businesses are tackling a must-have benefit, health insurance, by directly contracting with hospitals, medical groups and other providers. Gary Herschman, a member of the law firm Epstein Becker Green PC, said the model used to be limited to large, self-insured businesses, including some national retailers, but it's beginning to trickle down to smaller businesses too.

Herschman

"The numbers aren't going through the roof," cautioned Herschman, who represents hospitals and other health care providers. "But there is growth. In some cases, the providers are taking the initiative and marketing themselves to small- and medium-sized companies."

One client, a hospital in a small Midwestern town, faced competition from a larger nearby institution. "A few years ago, my client started reaching out to local businesses and educational institutions," he said. "The hospital offered discounted rates to them and in exchange is capturing more of the local market. I've also seen some medical groups doing this — they may get less revenue in the beginning, via preventative care and closely managing their patients' illnesses — but their patient volume increases as their reputation for providing quality, cost-effective care grows. More and more self-insured employers flock to this model to keep their employee health plan costs lower."

Another Epstein Becker member, Tzvia Feiertag, represents employers and plan sponsors, and said she's seeing more businesses adopt a health reimbursement arrangement, or HRA, which is an employer-funded plan that reimburses employees for qualified medical expenses. New Individual Coverage HRAs may also reimburse individual health insurance premiums. Employers do not pay FICA or Medicare taxes on the contributions they make to HRAs, and the money received by employees is generally tax-free.

Feiertag

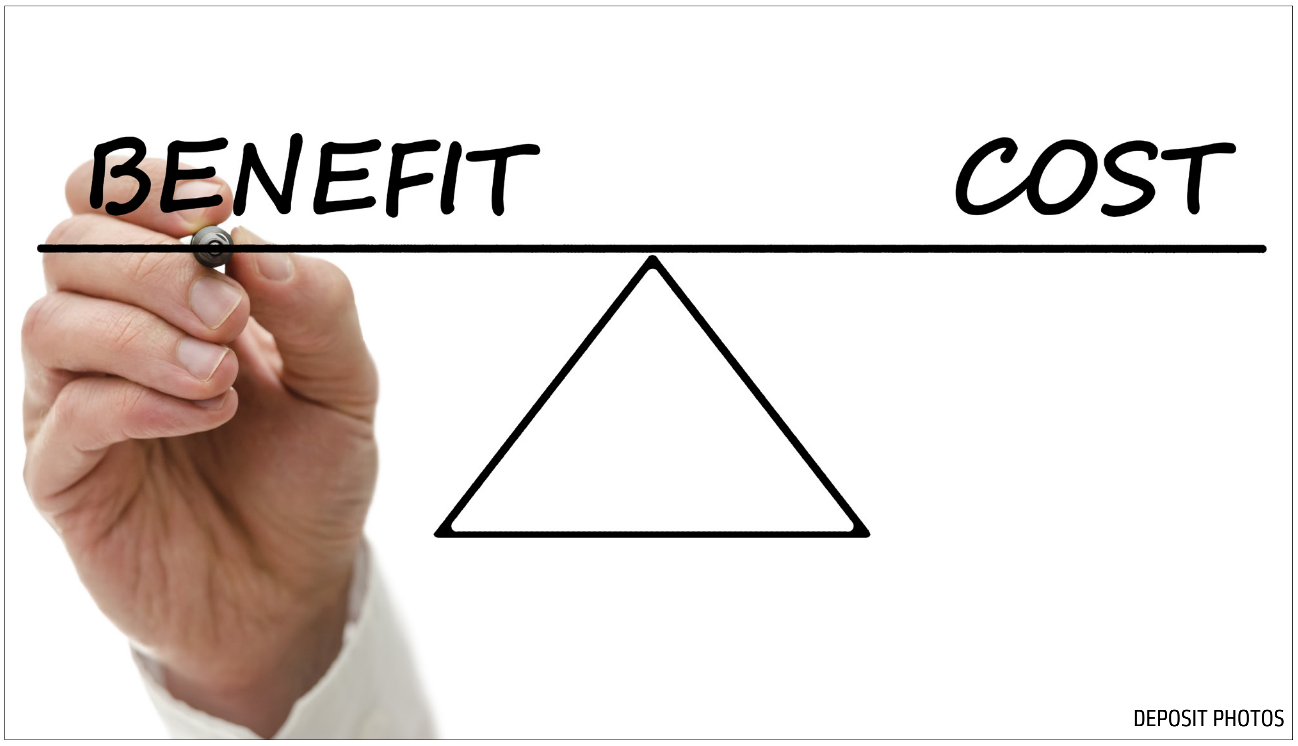
"HRAs fell out of favor under the Obama administration, "but they're gaining steam under the Trump administration," she said. "It's too early to call this a trend, but some small- and medium-sized companies that want to offer quality health coverage with more predicable costs — but can't afford to self-insure or pay ever-increasing insurance premiums — are expressing interest in Individual Coverage HRAs. This approach lets them control their costs, since the company can determine how much it'll contribute to an Individual Coverage HRA, while giving their employees the ability to select and secure a health insurance policy that fits their needs. And the policy is portable, so an employee won't lose it if he or she moves to another company."

Still, before a company fields an Individual Coverage HRA, "it should speak with an attorney or other adviser," because of regulatory and other issues, Feiertag cautioned.

SEEKING A PERFECT MATCH

Why employers need to align benefits with employee needs

BY MARTIN DAKS



DEPOSIT PHOTOS

When a young, well-liked employee at a small New Jersey-based company tragically passed away at a friend's wedding, "that affected the perception of many of his co-workers, and they suddenly started to ask their employer about life insurance policies," said Scott Peloquin, CEO of the employee benefit consulting firm BenefEx. "The company is a client, so we quickly adjusted our web-based portal to give them that information."

Events like that illustrate the importance of surveying employees to see what benefits — company-subsidized and "voluntary" ones that employees pay for themselves — are important to workers, he said. "Management may think they're offering competitive benefits, but you can't be certain unless you survey employees," Peloquin added. "We helped a 45-employee office equipment company in Somerset County re-apportion their benefit portfolio from a medical and dental plan to a plan that included Life, AD&D [accidental death and disability], Vision, STD [short-term disability], LTD [long-term disability], and added an FSA, or Flexible Spending Account, using our online survey tool."

He said the client company discovered that "employees would gladly trade off a slightly higher deductible on the medical plan to free up the funds needed to significantly expand their benefit portfolio with additional coverage lines. We also discovered that nearly half the employees were not aware their employer even offered a 401(k) — leading the CFO to conclude they needed to develop a better communications strategy."

After the changes were implemented, the client "had happier employees, and lower employee turnover," he added. "And paradoxically, the company also found itself with both a lower gross cost and a lower rate of premium inflation, despite the expanded and improved benefit offering."

Peloquin's a champion of surveying employees to help determine what benefits matter to them, but he also said it's a bad idea for a business to directly survey its own workers. "That's because people tend to filter their response to what they think their employer wants to hear," he said. "It's better to outsource the task to a third party that will anonymize the responses and ask questions that will yield valid answers."

Generally, a company needs at least 50 responses to get "statistically valid" answers, he added. "The questions should include whether employees will pay more for improved benefits. Sometimes there's a big gap between a desire for more choice in benefits, and their willingness to pay more. One way around this is to ask a hypothetical question: 'If you were going to spend $100 of your own money on voluntary benefits, what would you choose?' That can give you good insight into their priorities."

A LURE FOR GOOD EMPLOYEES

According to Charles Rosenberg, a vice president at Intac Actuarial Services Inc., a retirement plan is one of the most-requested benefits. "It's a good way to attract and retain highly qualified people," he explained. "Fortunately, a law that went into effect in 2020, the SECURE Act, is aimed at encouraging businesses to set up retirement plans and employees to participate in them."

As part of the government spending package that was signed into law in December 2019, Congress included provisions from the Setting Every Community Up for Retirement Enhancement (SECURE) Act. Its provisions include repealing the maximum age for traditional IRA contributions, increasing the required minimum distribution age for retirement accounts to 72, up from 70.5, and allowing certain part-time workers to participate in 401(k) plans.

A company may have great intentions when it rolls out targeted employee benefits, but can hit a road bump if the benefits don't align with employees' reasonable desires, cautioned Joe DiBella, managing director and executive vice president at Conner Strong & Buckelew, an insurance brokerage, employee benefits and risk management consulting firm. "Management may think they know what's important, but they may not always be right in this case," he said. "Remember, many companies normally have people in their 20s through their 70s working together — although COVID-19 may have temporarily changed that — and their needs will vary dramatically. We suggest web-based surveys as an efficient way to find out."

Getting first-hand knowledge about employees' benefits concern is only the first step, he added. "Businesses also need to benchmark their plans against their competitors. Before the pandemic, there was a lot of competition for talented employees, and that will return, post-pandemic. Companies have to be prepared for that."

Businesses also need to do a good job of explaining their benefits to employees. "Health care in particular confuses the heck out of people," said DiBella. "Employers need to demystify terms like copay, deductible, and out-of-pocket maximum, so employees can understand how it all works, why it's valuable, and how they can get the best value from their benefits."


Furbish

Research has shown that "health insurance, paid time off, and dental are the leading benefits offered by employers, closely followed by retirement savings plans," said, Jeff Furbish, chief sales officer of Delta Dental of New Jersey and Connecticut citing Robert Half/The Creative Group's 2020 Salary Guide. "Even with the ongoing upheavals brought on by COVID-19, these benefits may be viewed as being even more important. Companies that offer attractive benefits will continue to stand out in the marketplace."

He also pointed to a 2017 study by the Harvard Business Review found that 88 percent of job seekers considered benefits to be key when choosing a job. "Working with a trusted benefits broker/consultant is a great place to start when developing a benefits package that's right for both employees and employers," Furbish added.

TRANSPARENCY AND SIMPLICITY

Employees want to know how much their benefits will cost them, Furbish said. "Not only how much will be withheld from their paycheck, but also how much it will cost them when they use their benefits," he noted. "'Benefits-speak' can be confusing for employees. Providing a glossary to define terms such as deductibles, coinsurance, and annual maximums in approachable, understandable non-technical language is a good start. Examples and illustrations can help increase understanding, too. Also, providing employees with contacts at the benefits providers is a good way for them to learn."

A benefits education process should be a continuing process, "supported by multiple technology platforms," according to Lou Della Penna Jr., president of insurance brokerage and advisory services company Brown & Brown. "The most effective strategy is applying offered benefits to an employee's personal experience. Consider issues like, 'How many office visits do you have per year, how many medications do you take? Are the medications, brand or generic?'"

Della Penna said his company assists clients by letting employees enter the data "into a decision support tool that allows them to model benefit costs plan by plan. In addition, when able, we have virtual open enrollment meetings, virtual health fairs, and one on one employee educational workshops.

Some employee benefits can make a big impression without breaking the bank, he added. "We work with two companies that provide free beverages and snacks, daily and it is a huge perk."

DEPOSIT PHOTOS

FEELING PRESSURE

COVID-19 causes uncertainty for employee benefits planning

BY JOSEPH M. DIBELLA

The one constant in 2020 has been change and uncertainty. This is true in all areas of our lives, including the workplace. For employers — corporate, nonprofits, and government entities — there is an enormous number of unknowns, even as top management craves empirical data to make decisions.

With New Jersey's unemployment rate elevated during the COVID-19 pandemic, employers have faced difficult decisions, including furloughing or laying off workers, and then determining how to handle those loyal employees' benefits. And as COVID-19 remains an elusive enemy for decision-makers, many employers will be evaluating their 2021 health benefits plans this summer, before open enrollment begins in the fall.

One might expect to see a spike in health care costs in 2020, given COVID-19, but the opposite has happened. While those sick with COVID-19 had heightened costs, they have been a smaller subset of New Jersey's population. Instead, overall, health care costs are down for a number of reasons.

During lockdowns, the utilization rate dropped because people could not access non-emergency care and hospitals stopped elective surgeries. Even once health care providers reopened their offices and began treating patients again, the utilization rate remained depressed as patients pondered if they wanted to be in the health care system while COVID-19 continued. Health care costs were so low that some insurers even offered one-month waivers on premiums.

But the decrease in preventative and non-emergency care creates new uncertainties. Will people who delayed or skipped care find their condition worsening in the coming months? Will there be a balloon effect where demand for care will ramp up in the future? Will we find maybe we didn't need all the care we were accessing previously?

At the same time, employers face punishing budgets if revenue declined during lockdowns and if costs increased due to the pandemic. As they evaluate health insurance options for 2021, employers of all types are feeling tremendous pressure to reduce the unit cost of health care.

The situation is especially acute for public entities such as municipalities, counties and school districts. Public officials fear tax collections may decline as businesses in their jurisdictions struggle or even close, and as residents lose jobs or receive smaller paychecks. Officials face gut-wrenching decisions about cutting services, dipping into surplus or raising taxes.

Health care is the second-largest expense, after salaries, for every school district, town and county. The decisions made about health insurance plans can have a direct impact on property taxes paid by businesses and residents. To the extent government entities can wrap their arms around health care costs and avoid increases, that can have a positive effect on every business and homeowner.

One option for government entities is securing medical benefits through a health insurance fund (HIF), which can reduce costs and offer stability during uncertain times. A HIF allows public entities to band together to spread risk and negotiate for coverage, using their size and clout to drive down costs. HIFs, which are regulated by the New Jersey Department of Banking and Insurance, provide a large pooling platform to allow government entities to benefit from economies of scale that smooth out rate increases. Because HIFs are owned by the public entities, any savings are returned to the members as dividends, which has happened in 28 of the 30 years since HIFs were created in New Jersey in 1991. Over the past five years, on average, HIF budget costs have increased only 3 percent, lower than many non-HIF plans.

Bloomingdale, in Passaic County, joined an HIF in 2011, driven by $200,000 in savings on premiums. Since then, the town has received an average $100,000 annual dividend from the HIF. But in 2020, Bloomingdale Mayor Jon Dunleavy is also relieved by the risk reduction and rate stability offered by the HIF. "You're pretty much controlling your own destiny," Dunleavy said.

And that's a rare feeling in 2020.

Joseph M. DiBella is executive vice president – managing director, Health & Benefits Practice, at Conner Strong & Buckelew.

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NEW JERSEY'S TOP

Employee Benefits Cos.

Ranked by: the number of employees covered in New Jersey

BY BETHANY WIEGAND

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Summit, 07901
(908) 790-6880 | (908) 790-6899</td><td>Joseph Torella
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(732) 758-1577 | (732) 758-1582</td><td>Michael M. Salerno, Sam Christopher, Charles Stipelman, Lance P. Roteman
NA</td><td>Medical, dental, disability, life, AD&D, prescription, prescription discount programs, healthcare advocacy, reference-based pricing, specialty benefits (dental, life, disability, vision, worksite benefits/voluntary benefits, business travel accident), telemedicine, wellness programs, stop loss, compliance services (ACA, ERISA, Form 5500, health and welfare documents, and 401(k) retirement planning and ancillary services
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Source: The companies. **(1)** Other offices in Lambertville, Mount Laurel, Shrewsbury, Marmore and Egg Harbor Township NA: Not Available. NR: Not Ranked. There is no charge to be included in **NJBIZ** lists. We assume that information provided by representatives is accurate and truthful. We are not responsible for the omission of organizations that do not respond to our requests for information. Information received after press deadline cannot be included. If you wish to be included in future lists visit www.njbiz.com/lists and click on "Complete Survey" or e-mail lists@njbiz.com. The lists, or any parts of them, cannot be reproduced without written permission from **NJBIZ**. For more information on **NJBIZ**, please visit www.njbiz.com.

Six-year-old Lily Cuticchia of Haddon Township collected nearly 1,200 pairs of new socks for patients at Cooper University Health Care's emergency department and addiction medicine programs, which she donated to the health care facility on July 20.

New Jersey Institute of Technology, University Hospital in Newark and The Tuchman Foundation are collaborating to develop modular, mobile medical care facilities for deployment in areas with surging disease outbreaks, other disasters, or that lack health care infrastructure out of 40-foot-long repurposed shipping containers. The prototype, unveiled July 16 at University Hospital, is being constructed by Woodbridge-based Integrated Industries Corp.

More than 500 Bayonne Medical Center employees were joined by members of the BMC Hospital LLC team on July 14 to celebrate the recovery and discharge of the facility's last remaining COVID-19 patient. At the celebration, BMC Hospital also donated face coverings to be distributed at the hospital and elsewhere in Bayonne through the mayor's office. From left, BMC Hospital LLC President Wayne Hatami and members Feliks Kogan and Gregg Rock at the event.

Branchburg-based Bellari is donating emergency repairs to support local police, nurses, doctors and firefighters during the COVID-19 pandemic. One of those recipients, pictured here with his family, was Sgt. Tom Meola of the Branchburg Police Department. After recovering from his own bout with the virus, Bellari reached out to see if there was anything they could help fix at Meola's home—which resulted with a donated door from vendor partner ProVia, donated labor from Bellari and a secure entryway for the Meolas.

OPINION

HOLD THE LEVY

Health insurance tax would raise costs for small businesses at the worst time

BY EILEEN KEAN

As you read this, legislation is being considered in Trenton that would impose higher health insurance costs on small businesses at the worst possible time—during a pandemic when they are struggling to stay afloat. Despite the financial hardship, many small business owners have done all they can to keep their employees on their group health plans at a time when everyone is exceptionally concerned about the risks posed by an extremely contagious virus. Lawmakers pushing this bill need to know that it would not only hurt already battered small businesses but also their employees, who risk losing that important insurance coverage if the bill passes.

The companion bills introduced by the state Senate and Assembly would place an annual fee on health insurance companies providing coverage in the state. Taxing the insurers may not sound so ominous, but make no mistake, while insurance companies may have to write the check, it is small businesses, and other policy-holders who will pay the bill.

A similar levy was passed as part of Obamacare nationally, but after implementation it was quickly repealed. Back then, the Congressional Budget Office, actuaries at the Center for Medicare and Medicaid Services, and the Joint Committee on Taxation confirmed such a tax on insurers would largely be passed on to consumers in higher insurance premiums. That's exactly what will happen in New Jersey if this tax is adopted.

Not only will small businesses and their employees be hit hard by a health insurance tax, so will New Jersey's senior citizens who get supplemental Medicare policies, and those who purchase individual policies.

We all know this is one of the many ways policymakers in Trenton hope to raise additional revenue since New Jersey faces a huge budget deficit that led Gov. Phil Murphy to sign a bill allowing the state to borrow nearly $10 billion. But approving a health care tax that falls on small businesses and every citizen in the state during a pandemic seems highly counterintuitive.

Many small businesses went into an economic freefall in March, seeing revenue losses as high as 70 to 90 percent. Now as they try to come back, the business owners don't want to lose everything they spent their lifetime building due to rising costs. They want to come back, maintain their employees, and keep those workers safe, healthy and insured. They want to return to prosperity and even grow.

Lawmakers can help do just that by making wise decisions at this critical time, taking into account that piling added costs upon small businesses, especially now, could crush them forever. They should not raise health care costs, not send small business taxes skyrocketing, and realize that the return on that investment may be key to the state's recovery.

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