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HEALTH PLANS

THE RISK REPORT

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Digital Health

More Employers Offering Mental Health Chatbots

AS A RECORD amount of U.S. workers struggle with mental health issues and stress, more employers are offering new chatbot apps to help them.

A survey this past summer of 457 employers by Willis Towers Watson found that 24% of them offer a "digital therapeutic" for mental health support.

Some 15% of the businesses surveyed were considering adding this type of offering in 2024 or 2025, the professional services company found. Typically, these apps are provided as a voluntary or wellness benefit.

Some apps feature chatbots that can hold counseling-type conversations with users, while other wellness apps can help diagnose depression or identify people at risk of harming themselves.

At the same time, these chatbots and other mental health apps have generated controversy, with some experts warning that they are not equipped to handle serious mental health issues and that they are no replacement for human therapists.

However, as long as there are not enough therapists in the U.S. to meet demand and artificial intelligence continues to evolve, it's likely these chatbots are here to stay.

MENTAL HEALTH APP EXAMPLES

Twill – The platform says that Taylor, its clinician-trained chatbot, "learns, interprets and understands each person's needs and goals to guide them towards personalized care." Amazon recently contracted with Twill to offer it to its employees as part of its benefits.

Wysa – This AI-driven app received a breakthrough designation by the Federal Drug Administration, putting it on track for fast-track approval. This came after an independent peer-reviewed clinical trial, published in the *Journal of Medical Internet Research*, which found the app to be effective in the management of chronic pain, and associated depression and anxiety.

Woebot – This combines exercises for mindfulness and self-care (with answers written by teams of therapists) for postpartum depression.

Pros and cons

The apps vary in how much they incorporate AI — and in how much leeway they give AI systems. These companies say they build safeguards into their apps and that they have certified psychiatrists that oversee the applications.

Proponents say the apps can address issues like anxiety, loneliness and depression. Also, chatbots and apps can provide 24-hour support.

On the other hand, there is a paucity of data or research showing how effective, or how safe, they are — and the majority have not been approved by the FDA.

Also, there have been concerns raised about some of these apps. In March 2023, the Federal Trade Commission reached an $8 million settlement with BetterHelp, an app counseling service, over allegations that it shared user data with advertising partners.

Another company, Replika, updated its app last year after users complained that its chatbot engaged in overly sexual conversations, and even harassed them.

See 'Mental' on page 2

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Getting around the Tricky Question of Spousal Coverage

WHILE THE Affordable Care Act requires employers to offer coverage for employees' adult children until the age of 26, it does not require them to offer coverage to their workers' spouses.

As employers try to balance the costs of offering health coverage, spousal coverage is often on the table for cutting when making cost decisions. Many employers view offering spousal coverage as a way to keep up morale and serve as a recruitment and retention tool, but others consider the option a burden.

Cutting it out completely though is often a bitter pill for many employees to swallow, particularly if their spouse's employer doesn't offer coverage or if they don't work. And if they are forced to go to a public insurance exchange, their bitterness could deepen further. What's required is a diplomatic solution.

Instead of cutting it out completely, employee benefits experts suggest one of two ways to deal with the spousal coverage dilemma and reduce costs at the same time: a spousal carve-out or a spousal surcharge.

1. Spousal carve-out

With this approach, the employer defines plan eligibility so that spouses are ineligible to participate if they are eligible for coverage at their own employer. As an employer, you need to consider the following if this is the way you want to go:

- Will eligibility for any type of employer-sponsored coverage make the spouse ineligible? What if the spouse is only eligible for an employer-sponsored "mini-med" plan or other limited plan coverage?
- Is the cost of the other employer-sponsored coverage a factor in determining eligibility? One common approach is to make the spouse ineligible for the plan only if the spouse's cost of the other employer-sponsored coverage is less than a certain dollar amount.

Creative approach: Create a spousal carve-out program with an escape hatch that allows the spouse to remain on your plan if the price the spouse would have to pay for coverage under his or her own employer's plan exceeds a specified threshold.

2. Spousal surcharge

Charging a surcharge for spouses who are eligible for coverage at their own employer provides an incentive for spouses to choose to enroll in the other coverage, while still allowing eligibility in the employer's plan for those who need it. That said, this approach is an extra level of complexity in the communication and administration of benefits and payroll.

Creative approach: You can use a carrot instead of a stick. That is, give a monetary award to employees whose spouses switch from your plan to the spouse's employer's plan.

Verification

There are three ways to verify if a spouse has coverage through their employer:

- *Employee affidavit.* Your employee signs a statement certifying that his or her spouse is ineligible for other employer-sponsored coverage.
- *Certification from the spouse's employer.* Have the spouse's employer provide a letter stating that they are ineligible for health coverage. This approach may be difficult if the employer is not cooperative.
- *Eligibility audits.* You can do spot-checking of employee spouses' lack of access to coverage by randomly picking staff members and contacting each spouse's employer, rather than seeking verification in every case. ❖

Continued from page 1

Mental Health Care Offerings to the Forefront

The takeaway

Mental health care is an increasingly important part of employee benefits offerings. Since the onset of the COVID-19 pandemic, 94% of employers have made investments in mental health care, according to research by Mercer.

As these apps improve and become more widespread, it's likely your employees will encounter them when they use their group benefits, or they will be among your voluntary benefit offerings. ❖

Employee Benefits

Employers Eye Cost Savings for Workers: Report

DESPITE GROUP health plan inflation increasing again in 2024, a new study has found that employers continue staying the course in not shifting costs to employees who may already be overstretched by inflation and medical bills.

Instead, 64% of employers say they are looking for ways to boost their health and well-being offerings to better meet employee needs, according to Mercer's "Survey on Health & Benefit Strategies for 2024 Report."

That's on top of the 25% who said they had already enhanced their slate of benefits in the last two years to better attract and retain staff and meet employees' needs.

With health care costs expected to jump 7% this year from the 2023 level and insurance premiums reflecting that increase, many employers will be challenged to balance benefit options with cost-controlling measures, according to the report.

"Employers are looking to enhance benefits, but they need to do it carefully," Mercer wrote in its report. "Sometimes that means filling gaps in current offerings with more inclusive benefits. It might mean revisiting time-off policies to give employees more flexibility."

With significant cost-shifting off the table for most employers, they will have to get creative to meet the challenge of offering benefits that workers want and need, and health care they can afford, while also managing cost growth.

BOOSTING AFFORDABILITY

Employers are taking different approaches, including:

- Offering at least one free coverage in at least one plan.
- Making larger HSA contributions to lower-paid employees.
- Using salary-based contributions, with lower-wage staff paying less than those earning more.
- Offering programs to help manage specific health conditions.
- Focusing on virtual care.
- Steering members to quality care with a navigation or advocacy service (beyond the health plan's standard service).
- Limiting plan coverage to in-network care only (in at least one plan).

Other benefit enhancements

Employers are also looking at enhanced benefit options such as:

Support for women's health — According to Mercer, 46% of employers plan to offer benefits or resources to further support women's reproductive health, up from 37% last year.

This includes:

- Preconception planning.
- Menopause resources (the percentage of employers planning to offer menopause support has more than tripled since last year's survey).
- Lactation help resources.
- Postpartum depression resources.

WOMEN'S HEALTH: *Employers are increasingly offering women's health benefits and resources, such as those helping them deal with menopause.*

Childcare benefits and resources — Employers can help support caregivers for the long term with flexible hours and family leave and time-off policies. Some employers also provide subsidized childcare benefits.

Increasing employee flexibility — More employers are also offering paid time off for all kinds of families (like those with LGTBQ parents). Other options being offered include:

- Hybrid work options (80% of employers offer or plan to offer these),
- Paid time off to volunteer (49%),
- Remote work options (47%), and
- Four-day workweeks or consolidated schedules (22%).

The takeaway

With group health plan costs continuing to increase amid a highly competitive job market, employers need to take a balanced approach to their benefit offerings, while being mindful of the increasing out-of-pocket expenses their employees may face when accessing health care.

Your decisions in also offering enhanced benefits will obviously be based on your budget, but also on your employee population. Call us to discuss options. ❖

Age Discrimination Cases Up; Set Strong Policies

THE EQUAL Employment Opportunity Commission continues seeing a steady flow of complaints for one of the more common forms of workplace bias — age discrimination.

The number of court filings the EEOC made under the Age Discrimination in Employment Act (ADEA) in fiscal year 2023 was more than double that of fiscal year 2022. As the EEOC steps up its efforts under the Biden administration, it's crucial that employers have in place policies and employment standards to avoid any appearances of discrimination against workers based on age.

The ADEA prohibits harassment and discrimination on the basis of a worker's age for individuals over 40. This extends to any aspect of employment, including hiring, job assignments, promotions, training, benefits and more.

The law even applies to employers that use third party recruiters to screen job applicants, according to EEOC guidance.

RECENT CASES

- In March 2023, Fischer Connectors settled with the EEOC for $460,000 over accusations that the manufacturer fired a human resources director and replaced her with two younger workers after she had spoken up about company plans to replace other older workers.
- In September 2023, two former IBM human resources employees who were both over 60, sued IBM after they were terminated, alleging age discrimination.
- Wisconsin-based Exact Sciences agreed to pay $90,000 to settle a lawsuit alleging that it discriminated against a 49-year-old job applicant based on his age after it had turned him down for a medical sales rep position in favor of a 41-year-old.
- A 52-year-old woman sued a Palm Beach restaurant, alleging violations of the ADEA and the Florida Civil Rights Act of 1992. She claims that after working for 10 years as a seasonal server, she was terminated on the grounds that the restaurant was moving to year-round employment, yet continued to hire young seasonal workers.

What you can do

Age discrimination in the workplace doesn't just negatively affect employees. It also affects your company. Over the past 15 years, age discrimination cases have accounted for 20-25% of all EEOC cases — and such cases typically receive the highest payouts.

Ageism in the workplace is bad for business. Not only do you risk a large settlement, but you also miss out on a large talent pool of older workers in your hiring practices. You also miss out on the major contributions that older workers can make to your organization.

To prevent age discrimination at your firm:

- Train your managers and supervisors on age discrimination and that it won't be tolerated. Have in place consequences (and follow through on them) for managers that discriminate against an employee due to any protected status, including age.
- Consider taking out any sections of your application that disclose information about an applicant's age. Removing the date that an applicant graduated or completed their degree is helpful. This can allow hiring managers to focus on the skills and experience an applicant brings to the table rather than their age.
- If you have to go through a layoff, ensure you don't make any decisions based on age. You should focus only on two things during this process: making choices solely based on performance and the necessity of the position they hold. Even a seniority-based system is acceptable.

The takeaway and insurance

Often when the EEOC settles these cases, it will require the employer to sign a consent decree requiring them to implement age-discrimination training for hiring managers. You shouldn't wait for an order by the agency to do the same.

Finally: In the event you are sued for age discrimination, if you have in a place an employment practices liability policy, it may cover your legal costs and any potential settlements or verdicts.

Besides age discrimination, these policies will cover a host of other lawsuits by employees. ❖