PLANNING AHEAD: COVID-19 AND OTHER CONSIDERATIONS FOR 2021 HEALTH PLAN RENEWALS

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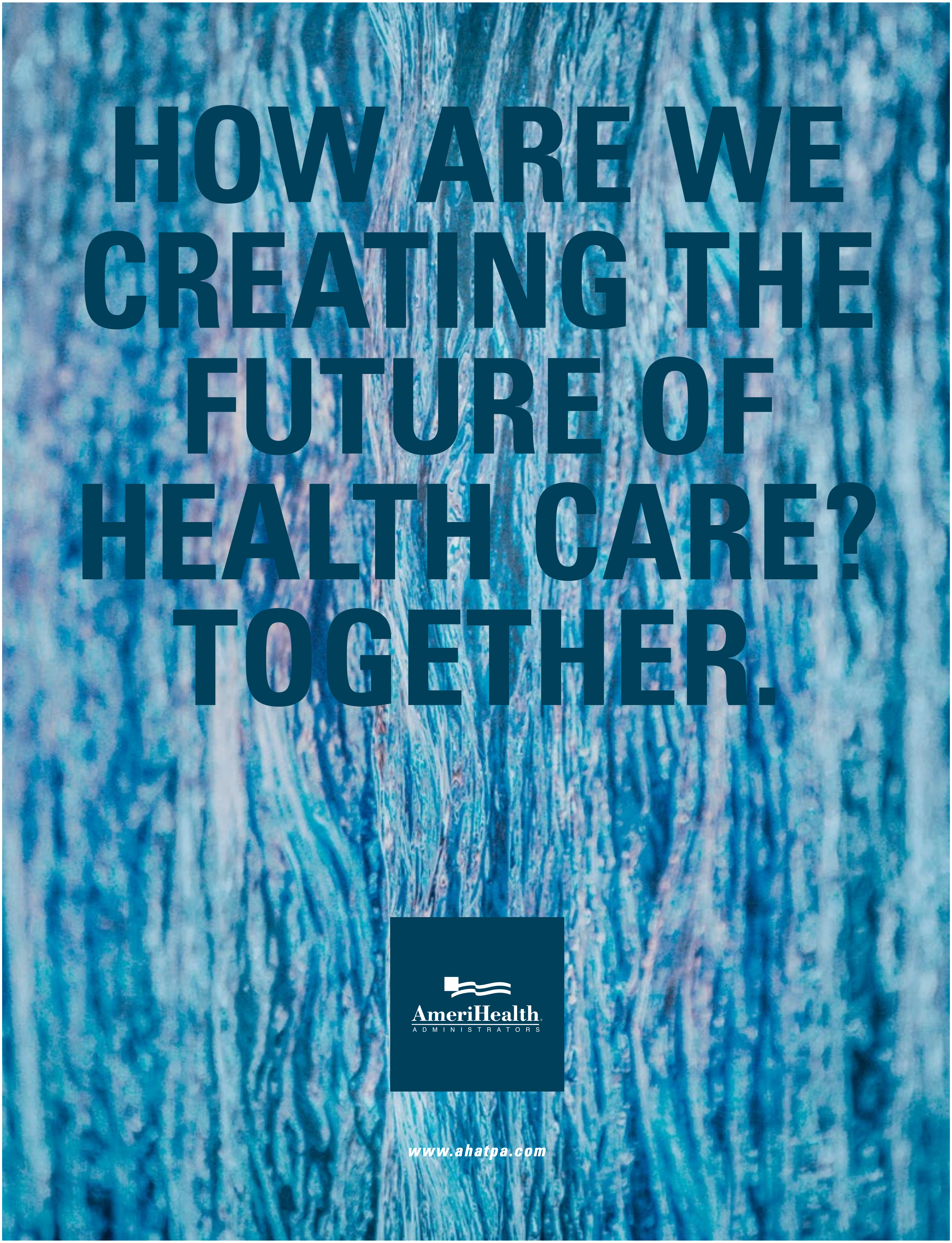
As summer fades away and the leaves start to fall, many of us must start planning for 2021. The expectations and goals we set in January of 2020 have likely required review and adaptation.

As a result of COVID-19, employers encountered unprecedented hurdles. In addition to the economic costs facing employers due to this pandemic, employers need action plans to address the logistical and morale challenges of COVID-19.

While financial considerations are typically on the list of perpetual concerns, employers must now ensure they have action plans for employees needing to balance work and childcare, workplace safety, and the continually evolving regulations regarding COVID-19.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Thankfully, with 2021 around the corner, employers have an amazing opportunity to boost employee morale and mitigate costs with thoughtful plan design. Employers can (and should) use the upcoming renewal opportunity to let their health benefits shine and invite excitement for employees about their 2021 health benefits.

In planning for the upcoming benefit year, design modifications can generally be categorized into two categories: (1) regulatory changes; and (2) recommended changes. Lingering uncertainty and future unknowns make both categories of design modifications equally important.

REGULATORY CHANGES

While the list of regulatory items that must be changed may seem overwhelming, some of the changes may ultimately be welcomed by employers or employees.

For example, benefit updates for COVID-19 related services and modified rules regarding continuation coverage were likely well received by employees.

In addition to the benefits and continuation coverage provided for by The Coronavirus Aid, Relief, and Economic Security (CARES) Act and Families First Coronavirus Response Act (FFCRA), the Department of Labor (DOL) and Internal Revenue Service (IRS) issued regulations offering additional relief for participants.

Specifically, the regulations allow additional time for participants to take actions such as electing (or paying premiums for) continuation coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) and filing an appeal of an adverse benefit determination or requesting an external review. Relief will apply retroactively from March 30, 2020 until 60 days after the end of the national emergency.

Relevant regulations did specify that penalties would not be imposed if plans were administered in compliance with the extended timeframes, even if contrary to the specific terms of the underlying plan document materials.

Ambiguity surrounding deadlines, however, leads to unnecessary confusion for individuals enrolled in the health plan. To eliminate this concern, plan materials should be updated and include details regarding the extended timeframes. Disclosure and inclusion of such information will also function to mitigate potential gaps that may arise between plan materials and stop loss policies.

In addition to the tolling of certain timeframes, employees may also welcome the updated Summary of Benefits and Coverage (SBC) templates for 2021, also requiring revision and implementation. The SBC is intended to provide uniform and consistent information regarding available plan benefits.

While modifications to the 2021 SBC template are not extensive, they do include updates to the coverage examples and the removal of information pertaining to the individual mandate.

Regarding employers, however, certain review and revision may be needed pertaining to plan out-of-pocket maximums. Specifically, on an annual basis the Department of Health and Human Services (HHS) determines the adjustments for the Affordable Care Act (ACA) in-network out-of-pocket maximums for non-grandfathered plans.

In addition, the IRS sets the standard for high-deductible health plans. These iterations are expected annually and should be reviewed and applied in alignment with employer intentions.

The interesting twist on out-of-pocket maximums that employers may be contemplating (or have already addressed) is the policy change on drug manufacturer assistance calculations for non-grandfathered plans.

An employer plan is not required, but may, count toward the out-of-pocket maximum drug manufacturer assistance, coupons, or other cost reductions. This is true even if the assistance in question is available on a drug without a generic equivalent. This update may create an opportunity for cost-savings as plan out-of-pocket maximums are reviewed; however, employers should examine whether any other state laws require consideration.

Another regulatory update seemingly well received by both employers and employees is the relief contained within IRS Notice 2020-29. This relief, while temporary until December 31, 2020, relaxed the rules for mid-year election changes offered under Section 125 cafeteria plans.

Pursuant to this guidance, employees (if the employer decides to offer this optional election and documents the offering accordingly by way of amendment) could revoke an existing health plan election if certain factors were met.

For employees, this opportunity might be the flexibility needed to reduce or modify coverage as finances face greater and continued uncertainty. For employers, this offering might foster goodwill among employees anxious to make plan modifications as a result of less certain financial times.

RECOMMENDED CHANGES

Since the list of 2021 required regulatory changes may not be as extensive as in prior years, employers may want to consider modifying benefits to account for the evolving needs of their workforce.

Health benefits remain valuable during the pandemic. Employers who consider implementation of 2021 updates that coalesce with employee needs and wants will only enhance goodwill.

For example, as part of end of year discussions, an employer should consider polling employees to identify benefits they consider absent or not robust enough. It is possible the stress of a pandemic means more employees are desirous of holistic health options such as acupuncture or nutritional counseling. Identifying benefit enhancements that most effectively promote employee wellness and have the greatest potential to improve employee happiness and productivity is of paramount importance.

Incentivization of certain behaviors under the plan is one avenue employers might explore. It is evident that certain benefits were more heavily accessed than others during this past year. Heeding feedback regarding the needs of employees during this trying time poses an opportunity to incentivize utilization that benefits both the employer and the employee.

For example, many appointments with primary care physicians were postponed due to limited availability, discouraged, or canceled, and employees did not have access to care as they would under traditional circumstances.

An alternative, offering focused medical care for employees while promoting financial predictability (i.e. potential cost savings) for the health plan, is direct primary care. As permissible per other plan agreements, the addition of a direct primary care benefit should be considered. This additional benefit would create direct access for employees to connect with a physician and receive the customized, tailored care needed during these challenging times, simultaneously easing ‘access to care’ anxiety during a pandemic.

In addition to direct primary care, technology offers availability of greater connections to care via telehealth and telemedicine. Telehealth services have been valuable as this option reduces the risk of exposure or transmission of COVID-19, while still providing the necessary virtual care.

For example, telehealth has been useful for screening and accessing whether potential COVID-19 patients need to be seen in a hospital setting or care can be managed from home. Over the course of the pandemic, eased restrictions encouraged providers and patients to utilize telehealth services.

Employers should revisit their benefit designs to determine whether and to what extent telehealth services are currently available to participants, and whether further modifications are necessary. By way of illustration, employers should review whether telehealth is a current standalone benefit or offered only through a specific vendor.

The availability of telehealth services should be clearly addressed and denoted within the plan materials to eliminate coverage related confusion under the health plan.

At the outset of COVID-19, many individuals feared limited supplies, supply chain disruptions, or quarantine status restrictions would impact the ability to access necessary medications. It is very common, and for myriad reasons, however, for health plans to impose prescription refill restrictions.

Limited access has the potential of leaving employees in a situation where they are without life-saving medications. With the continued unknowns of the pandemic, employers may consider relaxing refill protocols, ensuring access to critical prescriptions.

As permissible by the relevant plan agreements, employers could allow a 90-day supply instead of a 30-day supply in certain circumstances, investigate the availability of home delivery for prescription drugs, or evaluate mail-order pharmacy services. Prescription drug design flexibility not only has the potential to safely improve employee access to medication, but also create alternative prescription options that save money for the health plan.

Employees continue to face uncertainty as it relates to COVID-19, and this likely creates additional worry, stress and anxiety. Many employees are parents and caregivers and entering another school year with distance and remote learning, presents challenges for everyone.

Pandemic related hardships and disruptions have had a negative impact on mental and behavioral health. As a result, taking care of mental and behavioral health needs is essential. Enhanced benefits should be prioritized as employees need access to resources to address any mental and behavioral health concerns they face during these challenging times. Employers should examine the current health plan to determine whether revised benefits are necessary to offer increased support.

NEXT STEPS

With the end of the year rapidly approaching, employers must soon make critical decisions about employee benefit offerings. Once solidified, a review and update of the current health plan materials is necessary to ensure these benefit modifications are described accurately.

In addition to updating plan document materials, employers must review and revise other corresponding agreements and policies to ensure seamless and gap free benefit administration. For example, the updated plan document materials should be compared against the stop loss policies, network agreements, and vendor agreements to identify (and eliminate) coverage gaps.

It may seem like an overwhelming task, but by proactively revising employee benefit materials to address these items employers can generate employee enthusiasm for the upcoming 2021 benefit year. ■