# BENEFIT
## *Plan Developments*

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# Work/Life Programs Help Employers Energize Employees

Employers are responding to their employees' needs for work/life balance by providing programs and policies that allow employees to manage their personal and professional lives, according to a survey by Mellon Financial Corporation's Human Resources & Investor Solutions business (2004).

In comparing the survey results to one conducted in 1996, Mellon found that 81% of employers offer employee assistance programs, up from 70% seven years ago, while 54% now provide family sick days, up from 42%. Domestic partner benefits also reflect a growing trend, with 35% of employers now offering the benefit, compared to only 6% in 1996. In addition, the latest survey results showed 88% of employers offer work-related tuition reimbursement, 55% provide general resource and referral services, and 47% provide unpaid family leave beyond the required **Family and Medical Leave Act (FMLA)**.

"Work/life programs help employees manage the broader and more complex challenges and responsibilities they now face on the job and at home," said Mellon principal Allison Levin. "And for employers, they usually provide a cost-effective way to energize and support key performers, especially during periods of economic uncertainty. Our survey found the most commonly cited reasons for offering work/life programs are to enhance recruitment efforts (73%), raise morale (74%), and remain competitive (72%)."

Other findings from the survey include:

- 71% of respondents offer flex-time, up from 32% in 1996.

## *In This Issue*




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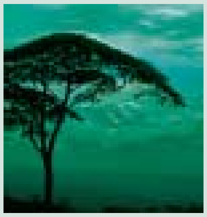


*The employees bringing suit claimed they were discriminated against for being young.*

- 50% of respondents offer telecommuting and work-at-home arrangements, up from 9% seven years ago.
- 44% of respondents offer compressed work weeks, up from 16% in 1996.
- 86% use part-time employees (fewer than 1,000 hours per year), up from 50% seven years ago.

## Older Workers Get Preference, High Court Rules

The U.S. Supreme Court has ruled that companies that give richer benefits to older workers and retirees are not violating the **Age Discrimination in Employment Act (ADEA)**. In *General Dynamics Land Systems Inc., v. Cline (No. 02-1080),* the justices threw out a lower court ruling and decided by a 6-3 margin that ADEA protects workers older than age 40 from preferential treatment given to younger workers, but does not apply in reverse.

The decision blocks a lawsuit brought by 200 employees in Ohio and Pennsylvania against General Dynamics after the company changed its retiree health plan to provide future benefits only to those over age 50. The employees bringing suit claimed they were discriminated against because they were too young to get benefits being offered to older co-workers.

"The statute does not mean to stop an employer from favoring an older employee over a younger one," Justice David H. Souter wrote on behalf of the majority. "An individual's chances of finding and keeping a job get worse over time; as between any two people, the younger is in the stronger position, the older more apt to be tagged with demeaning stereotype."

Writing in dissent, Justice Clarence Thomas stated that the law "clearly allows for suit brought by the relatively young when discriminated against in favor of the relatively old."

## Obesity Disabilities Cost Companies $12B Each Year

Obesity-related disabilities have increased right along with the body weight of Americans over the past ten years, according to UnumProvident, the nation's largest disability insurance provider.

Unum announced that obesity accounts for nearly 4,000 of its annual short-term disability claims, and is often a contributing factor in long-term disability claims. Obesity-related disabilities cost companies $12 billion each year in increased health care costs, absenteeism, and lost productivity. This amounts to an annual average of $8,720 per employee, Unum said.

Health and Human Services (HHS) Secretary Tommy Thompson noted that obesity-related health conditions account for about 7% of total U.S. health care costs, weighing down an already strained health care system. "A lot can be changed by changing our habits," Thompson said. "We're just too darn fat in America."

As a result, HHS has announced it hopes to raise awareness of the problem by offering one free physical to every Medicare-eligible senior beginning in January 2005. Thompson said the "Welcome to Medicare physicals" aim to save employers and taxpayers money by encouraging them to see a physician before more complicated and expensive treatments could become necessary.

## LTD Benefits Denied; Plan Standards Met

Because a beneficiary did not meet a long-term disability plan's requirement for "total disability" during a 180-day waiting period, an insurance company properly denied a claim for benefits, according to a ruling by the Eighth Circuit U.S. Court of Appeals *(Butts v. Continental Casualty Company and Michael Foods, Inc., No. 03-1134)*.

Patti L. Butts had worked at Michael Foods as a poultry housekeeper until June 24, 2000. Her job consisted of standing and walking for up to four hours each day, lifting up to two pounds, carrying up to ten pounds, and pushing or pulling up to 30 pounds. On July 10, 2000, Butts underwent a surgical procedure from which she suffered complications—including chronic abdominal and leg pain. As a result, she required additional surgery in July and saw several physicians between July and December 2000.

Butts was scheduled to receive additional physical therapy in November 2000, but missed the sessions due to family reasons. In December 2000, Butts underwent minor surgery and was released the following day with "no restrictions."

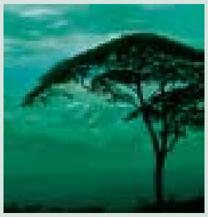
In November 2000, Butts filed a claim for LTD benefits with Continental Casualty Company, which had issued a group LTD plan to Michael Foods. Continental denied the claim because Butts did not meet the plan's requirement of total disability during a 180-day waiting period. Continental noted that if Butts' disability began on June 24, 2000 (her last day of work), she ceased to be totally disabled when she stopped physical therapy on Oct. 25, 2000. Butts filed suit in Nebraska state court, but Continental removed the case to the U.S. District Court, which granted summary judgment in favor of Continental. Butts appealed but the eighth circuit affirmed the district court's ruling.

The eighth circuit court noted that the LTD plan clearly gave Continental the discretion to determine eligibility for benefits. The court noted that although Butts' condition "took a turn for the worse. . .the fact remains that the disability policy requires a 180-day period of total and *continuous* disability."

## Aetna Program Shows CDHPs Contain Costs

The preliminary results from an Aetna study (2004) suggest that **consumer-driven health plans (CDHPs)** can be effective in controlling costs. In studying nearly 14,000 members in its HealthFund, Aetna found that medical costs increased only 1.5% and use of preventive care climbed by 16%. The study included employees from 19 different employers, and compared two similar periods of claims for the same members in 2002 and 2003.

Members in Aetna's HealthFund plan are allotted a specific amount of money in their health fund each year to pay for all health costs. A deductible applies after the balance is used, but once the deductible is met, the employee reverts to traditional health insurance coverage.



*The LTD plan clearly gave Continental the discretion to determine eligibility.*

The plan also allows rollovers of any unused balances and provides preventive care at 100% coverage.

Other key findings include:

—Preventive care visits increased by 30%, compared with a 14% increase for a similar population outside the plan.

—Members had a 6.5% decrease in pharmacy costs that were driven by an 11% decline in overall prescriptions and a 12.8% increase in an overall use of generic drugs.

—Member use of online consumer tools and information increased 11%.

—More than half of the members had fund dollars left to roll over into 2004. On average, those members rolled over 31% of their fund.

—Nine out of ten members said the fund met their expectations and an equal number said they were likely to renew their coverage.

## Bill Proposes LTC Partnerships With All States

Legislation has been introduced into the Senate to amend Title XIX of the **Social Security Act** to permit additional states to enter long-term care partnerships under the **Medicaid** program. Currently, only four states have such programs: California, Connecticut, Indiana, and New York.

The legislation (S. 2077) has been introduced by Sen. Larry Craig, R-ID, and is being supported by Sen. Evan Bayh, D-IN, and Sen. George Allen, R-VA. Under the bipartisan bill, an individual would purchase a **long-term care (LTC) insurance** policy approved by a state government and, in return, the state would guarantee that should the policy benefits be exhausted, the government would cover the costs of continuing care through Medicaid without requiring the senior to spend down their assets.

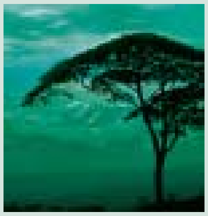
"Experts estimate that four out of ten people who reach the age of 65 will need long-term care at some point, and many people mistakenly believe that the federal Medicare program will cover the cost of long-term care," Sen. Craig said. "But the reality is that Medicare only covers nursing home costs for a short period following a hospital stay."

Sen. Craig, who serves as chairman of the Senate's Special Committee on Aging, noted that "long-term care can draw down a senior's bank account in a very short time. This legislation will give seniors peace of mind."

## Benefit Costs Rise Faster Than Salaries

Benefit costs in private industry continue to rise faster than salaries, according to the Employment Cost Index released by the U.S. Dept. of Labor's Bureau of Labor Statistics (BLS, 2004).

According to the Index, benefit costs for private industry workers increased 6.4% for the year ended December 2003. This compares to a 4.7% increase for a similar period one year earlier. Meanwhile, total compensation increased 4% for the most recent period, lagging behind benefit costs by 2.4%. The BLS attributed rising benefit costs primarily to increases in health insurance costs for employers.



*Experts estimate 40% of those who reach age 65 will need long-term care.*