

March 2006

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Healthcare Cost Challenges: Looking for Preventive Solutions with ROI

Eva Lynne Disbro ★ McKee Food Corporation & Affiliates

Healthcare benefits are an important part of the “employment deal” we offer to attract and retain employees. In most labor markets, it would be hard to compete for talent without it. But healthcare costs are an increasingly worrisome issue for most businesses, due to inflation that has outpaced costs for any other benefit and most other costs of doing business. Healthcare costs are taking up a larger and larger percentage of the total compensation package.

What can we as employers do? For many years, it was pretty simple (not easy to do, but simple): cut benefits, increase employee co-pays and premiums or redesign the plan to encourage more cost-effective healthcare (require use of PPOs, encourage outpatient vs. inpatient, set limits on certain kinds of treatment, use tiered drug plans to encourage use of generics, etc). But so often, cost-containment efforts have a negative employee relations impact. Employees who struggle from paycheck to paycheck groan about higher premiums and co-pays, family members worry about at-home emergencies that might arise after outpatient surgery, and employees don't like limits on anything they perceive as a benefit, whether it's the number of chiropractor visits or the annual maximum for dental.

McKee Foods has been committed to encouraging employee wellness for many years. We bought our first employee recreation area in the 1960s and initiated wellness programs in the mid 1980s. While these were good for employee morale and good recruiting tools, we didn't have data to show that they had any impact on healthcare costs. However, a couple of years ago, we added another program that's already showing a good ROI. It encourages taking care of the little health concerns to prevent the big claims. Our new wellness and disease management program includes these features:

- ❑ a biannual employee health risk appraisal with individual feedback and follow up counseling if risk factors are present
- ❑ on-site clinics staffed with nurse practitioners conveniently located so that employees may use it for:
 - episodic care (headache, sinus infection, bronchitis, etc.),
 - care coordination (cholesterol reduction, blood pressure monitoring) and
 - disease management (education and guidance for treatment of diabetes, asthma, etc.).

Clinic visits are free for employees, including lab work.

We reviewed the results last summer after one full year of clinic operations and found the following results:

- ❑ The number of employees on medical leaves went down by 24%. (We also implemented a light duty/return to work program and made some changes in our short term disability plan that may have impacted this number.)
- ❑ The number of emergency room claims went down by 14.25% and we paid more than 31% less in emergency room claims.
- ❑ Health care costs for employees participating in this program went down compared to the previous year, while costs for employees who didn't participate and their family members went up. Using conservative calculations, we saw a 118% ROI.
- ❑ Employees at all plants have been very positive about the new program, some saying “This is the best thing the company has ever done for employees.”

In the future, we plan to continue this new wellness/disease management initiative. We're also active in a regional health-care coalition and participating in a regional data

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A Conversation With Mr. Secretary

Deborah K. Woolley ★ President

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It was a most interesting and productive meeting.

Eight members of the Tennessee Chamber's board, representing all of you, sat down with U.S. Secretary of Commerce Carlos M. Gutierrez, at his request, to discuss what challenges and concerns American businesses face in being competitive.

The Tennessee Chamber group was joined by eight health care executives, a recognition on the part of the Secretary that one of the challenges to competitiveness is the cost of health care in America.

The meeting wasn't the first time the Secretary had reached out to the Tennessee Chamber for issue discussions and input. His office asked to have a conference call with Tennessee Chamber members last year when CAFTA, the Central American Free Trade Agreement, was in the final days before a congressional vote. Other times, his office has reached out to the Chamber for support and action on diverse trade and commerce issues.

It is not surprising.

Prior to becoming Secretary 12 months ago, Mr. Gutierrez was the chairman of the board and chief executive officer of Kellogg Company, the youngest person to ever hold those positions.

So when he defines his role in the President's Cabinet as "the voice of business," he is walking the talk in terms of personal experience and in reaching out to business leaders across the country.

The Secretary told the group that "we have a great economy ... the most vibrant economy in the industrialized world. There is nothing like it; we are the envy of the industrialized world." He pointed out that inflation is in check despite energy increases, hurricanes,

stock market slides, the dot.com bust and corporate scandals that damaged America's confidence in business.

He quickly cited elements of the President's competitiveness agenda that he considers critical: (1) Make tax cuts permanent, else they become a tax increase. (2) Don't isolate ourselves and become protectionists. (3) Double the commitment to federal R&D spending for basic sciences. (4) Make the R&D tax cuts permanent to incentivize the private sector. (4) Increase the emphasis on math and science for K-12. (5) Increase teacher volunteers, especially in math and science. (6) Triple the number of workers who will be re-trained, primarily through community colleges. (7) Extend the immigration visa limits for high-skilled immigrants.

He then challenged the business leaders "to take it up a notch."

"You are very competitive today, that is why you are in business," he said. "While we have the lead, let's move it up. Let's make this the American decade of innovation and wealth."

Secretary Gutierrez then listened.

He heard about challenges for American companies as Russia writes new rules concerning the testing and labeling of bio-tech products, a move that could limit those markets from American companies.

He promised to check into it... and he wrote it down. Traveling with two or three aides, he still took his own notes.

He then heard concerns about today's energy prices and the federal energy policy. He discussed the need to diversify from petroleum products and admitted that we have, so far, lacked "the political will."

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Healthcare Cost Challenges

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warehouse which will allow us to identify patterns of care and unusual cost trends and work with our insurance carrier to follow up on problems. We're also encouraging consumerism attitudes when employees use health care and broader awareness of quality of care data.

We know that healthcare costs will present ongoing challenges for management in the years ahead, but we believe that some of the initiatives we have underway will continue

to show results. At the end of 2005, our healthcare costs per employee actually went down slightly for the third time in the past 10 years. We will continue to look for ways to manage this important—and expensive—employee benefit.

Ms. Disbro is vice president of Human Resources for McKee Food Corporation & Affiliates as well as chair of the Tennessee Chamber's Human Resources Committee. She can be reached at eva_lynne_disbro@mckee.com

Department Of Labor Issues Final Military Leave Rules

Todd P. Photopulos, Esquire ★ Butler Snow

More than 525,000 men and women have been mobilized for military action in Iraq and Afghanistan since the September 11, 2001, terrorists attacks, and more than 390,000 have been released from active duty. According to Secretary of Labor Elaine Chao, "this is the largest deployment of the Military Reserves and National Guard since World War II. These brave men and woman should not have to worry about their civilian jobs and benefits when they are on the front lines defending our freedom."

On Dec. 19, 2005, the DOL's Veterans Employment & Training Services (VETS) released its final rules implementing the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), clarifying an employer's obligation to return service members to the pay and benefit levels they would have had if military service had not intervened. The regulations became effective on January 18, 2006. The DOL is also requiring employers to post a new notice of USERRA rights. This notice will be available on the VETS website (www.dol.gov/vets).

USERRA generally provides for the employment and re-employment of employees who leave their civilian jobs to serve in the military, including the National Guard and Military Reserves. The law also prohibits employers from discriminating or retaliating against veterans, members of the military services, and applicants for military service.

As a general rule, the regulations require employers to reinstate returning service members within two weeks after they apply for re-employment, absent unusual circumstances. The new rules also apply the "escalator principle," which requires employers to provide returning service members with the same seniority, status, and pay they would have attained had their employment not been interrupted by military service.

The regulations state that the "escalator principle" also applies to returning employees' opportunities to take promotional examinations or skills tests, and to earn merit pay increases and performance bonuses. Moreover, the final regulations provide that employers must make reasonable efforts to accommodate a disability incurred during military service.

Returning employees also have specific rights for continued coverage under their employer's healthcare and pension plans. Returning service members have the right to continue their employer-based health coverage for up to 24 months while they are in the military. If the employees do not elect continuation, the employer must reinstate them in the plan upon their reemployment without waiting periods or exclusions. The USERRA notice requirements are similar, although not identical, to the COBRA notice requirements. One important distinction is that USERRA covers all employers regardless of size, while COBRA only covers employers of 20 or more people.

With regard to pension benefits, employers must generally treat the returning employee as if the military leave had not occurred. The employees continue to accrue pension benefits, and the level of employer contribution does not drop to the level of the military salary.

For employers who sponsor a retirement plan such as a 401(k) plan, the USERRA regulations allow returning employees the greater of three times the period of military service, up to five years, to make up the contributions that they otherwise would have made during the period of service. USERRA also requires employers to make retroactive contributions to defined benefit pension plans.

Mr. Photopulos is a member of the Labor and Employment group at Butler Snow. He can be reached at Todd.Photopulos@butlersnow.com

Tennessee Chamber Granted Amicus Status In Case of 'First Impression' In Tennessee

On January 26, 2006, Judge W. Dale Young granted the Tennessee Chamber of Commerce & Industry's motion for leave to file an amicus curiae brief and participate in oral argument, held on January 30th. Satterfield v. Breeding Insulation Company, Inc. and Aluminum Company of America (ALCOA) is a case of first impression in Tennessee and is pending in the Blount County Circuit Court in Maryville.

It is a case that could have significant impact on the business climate in Tennessee.

At the time the Tennessee Chamber's motion was granted, ALCOA was seeking dismissal of the case by a Motion for Judgment on the Pleadings. ALCOA had argued that Satterfield's complaint did not set forth a valid cause under

existing law. The case is a so-called "secondary exposure" case in which it is alleged that exposure to asbestos came from clothing of an employee who brought the clothing home and exposed a non-employee family member.

Because the Tennessee Chamber was not a party in the case but recognized the broad implications of the case, it elected to file a "friend of the court" (i.e., amicus brief). These briefs may be filed with the court's permission by a non-party. The Tennessee Chamber was represented by Robert G. McDowell and Helen F. Bean of Baker, Donelson, Bearman, Caldwell & Berkowitz.

After winning the opportunity to be heard on the matter, Mr. McDowell argued, on the Chamber's behalf, that extending an employer's duty to main-

tain a safe workplace for its employees to persons who were non-employees would produce numerous lawsuits, unwarranted results and could have far reaching economic, legal and social consequences. In addition, Mr. McDowell argued that any "new duty" of an employer should be decided by the state legislature as a public policy issue and not by the courts. Judge Young took the motion, briefs and oral arguments under advisement and indicated his written decision would be forthcoming.

We will keep you informed of the outcome of this case. We are hopeful that Tennessee will follow the lead of the highest courts in New York and Georgia who have already ruled that these types of claims are invalid. We greatly appreciate the efforts of Mr. McDowell and Ms. Bean on our behalf.

Thomas & Betts Facility Named To Industry Week's Top 10 List

Thomas & Betts Corp. in Athens, Tenn., was recognized as one of Industry Week's Top 10 Best Plants for 2005, the only plant in Tennessee to receive the recognition.

These 10 plants, Industry Week stated, "produce different products from one another ... and face different competitive challenges in their quests to excel at the jobs they do. What they share, however, is a vision of excellence by design, not by accident. They hire the right people and train them appropriately; they focus continually on improvement; they have leadership that encourages input from all employees and employees who take up the challenge; and they look outside their four walls to their upstream and downstream partners in their efforts to be the best."

In receiving the honor, the team at Thomas & Betts Corp. in Athens says it has "undertaken to complete a five-year plan of action by 1-1-2006 that will take our facility to the next level of lean implementation." That's following a lean journey that already has resulted in impressive metrics at the plant, which makes electrical outlet and conduit boxes, as well as metal framing accessories and wiring duct..

The Athens, Tenn., Operations also earned Thomas & Betts' "Plant of the Year" and "Most Improved Plant" in 2003. Since fourth-quarter 2003, the facility has gone more than 1.4 million hours without a lost-time accident.

Data Collection Underway For Wage and Benefit Survey 2006

In 2005, more than 90 percent of Tennessee employers reported they were actively recruiting personnel. Attracting and retaining a quality workforce is crucial to the success of every business. The Tennessee Chamber of Commerce & Industry recognizes the need for reliable compensation information and offers a resource to help employers get an accurate assessment of their market.

Participants have commented on the user-friendly questionnaire and the simple format of data submission – either electronic or paper. The survey results are presented in a straight-forward, easy-to-understand format in either electronic or print versions. The benefits-and-pay practices section covers about 50 different areas including a section that expresses the cost of benefits as a percent of payroll.

The Compensation Data – Kentucky/Tennessee pay-and-benefits survey is conducted by Compdata Surveys and is designed to provide a comprehensive picture of compensation practices for businesses of all sizes in the area. Information is collected on 532 job titles ranging from entry-level positions to top executives. Pay information is reported by company size, industry, and region of the state, and multiple state data is given for all management and key professional positions. With complete coverage of benefits and pay practices also included, employers can see how their compensation programs measure up to those of the competition.

Data collection began in February, and results are released late in June. The price for Chamber members who participate in the survey is only \$299. The price for non-member participants is \$319, and non-participants pay \$729. If you are a Tennessee Chamber member and want to participate in the survey, call Compdata Surveys at 1-800-300-9570 or visit www.compdatasurveys.com. Be sure to mention your member status, or enter promo code 'TCCI' when using the web site.

A Conversation with Mr. Secretary

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“We are behind in the use of nuclear power,” he said. “We need a national discussion that will allow us to break through our energy problem.”

He heard about health care costs and the impact it has on both jobs and competitiveness. He discussed with the group their thoughts on the factors driving health care costs and what can be done to address them. He asked about the negative contributions of the legal system on health care costs and learned that many of the people around the table were more focused on the “appropriateness of care,” citing the fact that inappropriate or unnecessary care can contribute up to 30 percent of the costs of health care. He heard that there are no incentives for doctors or providers to focus on “appropriateness of care.”

He listened, and he wrote it down.

He discussed “dumping” by other nations and heard concerns that the American process of pursuing a dumping claim is too long, too cumbersome and too costly to be effective. “If the damage is done and it is permanent by the time the

action is pursued,” one business leader told him, “then there is no reason to pursue the claim.”

He said the Commerce Department has taken more dumping cases forward in the last five years than in all previous years combined, but he was concerned that the process was thwarting claims being brought to the Department.

He wrote it down.

He heard about technology advances in managing health care and health care operations and the eventual contributions that they would make to improved care and lowered costs. He heard what might work and what might not work.

He wrote it all down.

When the roundtable ended – and it could have gone much longer, he thanked the group. Then he carefully tore his notes out of his notepad, folded them and put them in his pocket.

After writing it down, he took it with him – with a commitment that the voices of the Tennessee business leaders had been heard.



Tennessee Scholars Continues to Grow

Congratulations to Obion County, Benton County and McNairy County, our newest Tennessee Scholars communities.

The chambers of commerce in 35 counties have now implemented the Tennessee Scholars Initiative. The benefits of having a Tennessee Scholars program in your community are:

- ❑ Economic development improves as a result of a better qualified workforce.
- ❑ Tennessee Scholars counts as 100 points toward 3-Star community recognition.
- ❑ Students are better prepared to go to college or the workforce.
- ❑ Schools experience increased attendance rate, better disciplined students, higher graduation rate, and more students taking more rigorous courses.

- ❑ The initiative is simple, low cost, and highly effective with quick results.

Tennessee Scholars not only results in more students going to college, it has added financial incentives. With the newly passed “Smart Grant” by the U.S. Congress, the Hope Scholarship, and the universities and colleges in Tennessee that now offer additional scholarships for Tennessee Scholars, being a Tennessee Scholar is a non-competitive way a student has to get money for college.

If you would like to be the next Chamber to help this program to be implemented in your schools, please contact Ruth Woodall at ruth.woodall@tnchamber.org or at 615-256-5141.

Reversing Trial Court, Tennessee Court of Appeals Holds That Wholesaler-to-Wholesaler Sales Are Not Subject to Additional Business Tax

Kenneth A. Goldberg, Esquire ★ UST Inc.

In an opinion filed January 23, 2006, the Tennessee Court of Appeals reversed the Chancery Court, holding that Pfizer’s sales to other Tennessee wholesalers were not subject to the additional business tax on “wholesale sales” as defined by statute. *Pfizer, Inc. v. Commissioner*, 2006 Tenn. App. LEXIS 44 (2006).

Pfizer, a New York-based manufacturer of pharmaceutical products, maintained a Memphis warehouse and distribution center throughout the 1995-2000 assessment period. Pfizer utilized the Memphis facility to distribute pharmaceutical products to a variety of Tennessee customers, including Tennessee wholesalers such as McKesson Corporation.

During a routine audit, the Tennessee Department of Revenue determined that Pfizer’s sales to other Tennessee wholesalers were subject to the additional business tax on wholesales sales, and assessed Pfizer approximately \$3.5 million (\$2.275 million in additional tax, plus statutory interest and a \$568,883 delinquency fee). Pfizer challenged the assessment before the Tennessee Chancery Court, which ruled in favor of the state.

On appeal, the Court of Appeals held that the statutory definition of “wholesale sales” should be construed to include only sales by a wholesaler to a retailer who in turn sells to a consumer. Rejecting the state’s position, the appellate court held that because sales from one wholesaler to another were “one step removed from being subject to the additional tax,” Pfizer’s sales to other Tennessee wholesalers were not taxable “wholesale sales.” The appellate court’s opinion sub silentio invalidates the Department of Revenue’s long-standing regulatory position that sales made by one wholesaler to another wholesaler constitute taxable “wholesale sales.” See *Tenn. Comp. R. & Regs. R. 1320-4-5-.47 (2005)(3)(Sales for Resale)(original rule certified June 7, 1974)*.

Although the state may appeal to the Tennessee Supreme Court, the Pfizer case should encourage taxpayers aggrieved by questionable administrative positions that conflict with statutory requirements. Chamber members with pending assessments or potential refund claims should contact their tax advisors.

Mr. Goldberg is director of Tax Research and Planning for UST Inc. and can be reached at KGoldberg@usthq.com



Can You Recognize Possible Workers' Comp Fraud?

Fraudulent claims are a major threat to cost-effective risk management operations. The National Council of Compensation Insurance (NCCI) has indicated that 25 – 33 percent of all reported workers' compensation claims are either fraudulent or greatly exaggerated. CCMSI, the administrator for the Tennessee Chamber-sponsored workers' compensation trust – TABCOMP, has compiled a list of indicators to assist you in controlling your total cost of risk.

By recognizing and reporting signs of possible fraud, you can identify claims that merit a closer evaluation. No one indicator by itself proves fraud, and even the presence of several indicators doesn't mean fraud has occurred. But by knowing what to look for, you might see troubling patterns that should be brought to TABCOMP Trust's attention if your coverage is through TCCI's sponsored work comp program or to your other workers' comp carrier's attention.

If an injured worker:

- Has a history of claims or injuries
- Protests excessively about a modified position or returning to work
- Has a questionable identity, residence or contact information
- Is experiencing financial difficulties and inquires about a quick claim statement
- Is retiring, on probation, involved in a labor dispute, disgruntled, a poor job performer or subject to disciplinary action
- Is rarely at home, does not answer telephone or avoids the use of U.S. Mail

- Is overly familiar with the workers' compensation system or terminology
- Stays out of work longer than the doctor prescribed
- Is a new employee, nomadic, a seasonal worker or on short-term employment
- Refuses medical tests or examinations to confirm an injury

RED FLAGS OF POSSIBLE FRAUD ABOUT THE ACCIDENT

If an accident/injury:

- Lacks witnesses
- Occurs on a Friday afternoon (especially if not reported until Monday) or a Monday morning
- Is not associated with employee's job duties
- Is not reported to the employer in a timely way

Also watch for:

- Injury complaints inconsistent with facts of the accident
- Vague details or rumors at work that an accident was staged or illegitimate
- Accident occurred in an area not frequented by employee
- Multiple versions of how the accident occurred
- Accidents that are reported late and/or unwitnessed.

CCMSI serves as the administrator for TABCOMP, the Tennessee Chamber-sponsored worker's compensation trust for manufactureres. For further information, contact

Janet Bowman at jbowman@ccmsi.com

Tennessee Chamber of Commerce & Industry 94th Annual Meeting & Legislation

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2006 SEMINAR SCHEDULE

January 1- June 10, 2006

2006 WINTER/SPRING SCHEDULE

DATE	SEMINAR	LOCATION
March 10, 2006	Basic Safety	Nashville
March 14, 2006	Basic Safety	Jackson
March 23, 2006	Basic Safety	Chattanooga
March 29, 2006	Basic Safety	Morristown
April 4-5, 2006	10-hour OSHA Voluntary Compliance	Jackson
April 12-13, 2006	10-hour OSHA Voluntary Compliance	Knoxville
April 7, 2006	Forklift Safety	Kingsport
April 11, 2006	Forklift Safety	Jackson
April 21, 2006	Forklift Safety	Nashville
April 18, 2006	Bloodborne Pathogens & Sharps Injury Prevention	Kingsport
April 19, 2006	Bloodborne Pathogens & Sharps Injury Prevention	Knoxville
April 25, 2006	Bloodborne Pathogens & Sharps Injury Prevention	Chattanooga

For further information, call Suzie Lusk at 1-615-256-5141
or visit www.tnchamber.org

Welcome New Members

The Tennessee Chamber welcomes the following new members who joined in January:

BSH Home Appliance Corp.,
Jacksboro

Chattanooga Gas Co.,
Chattanooga

Furcillo Export Solutions
USA, Nashville

Premier Safety, LLC,
Clarksville

Temple-Inland,
Waverly

New Cornerstone Members

UNUMProvident Corp.,
Chattanooga



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