

Employee Benefits Report



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How the Ukraine Crisis is Affecting the US Workforce

The Ukraine crisis is having unforeseen effects on the US workforce that may be more far-reaching than expected.

Elevated inflation rates, a breakdown of global trade, and spiking stress levels are just some of the problems American workers are experiencing. But employers can help by offering support through a variety of benefits.

Inflation Hits a 40-Year High

The annual inflation rate in the US accelerated to 8.5% in March of 2022, the highest since December of 1981, from 7.9% in February and compared with market forecasts of 8.4%. According to the Labor Department, higher

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President Biden Urges Congress to Pass the Paycheck Fairness Act

In his 2022 State of the Union address, President Joe Biden encouraged Congress to pass the Paycheck Fairness Act.

According to the legislation, employers will no longer be able to discriminate on wages based on anything other than job-related factors. Essentially, companies would have to prove that any disparity in pay between men and women is solely related to the job and in line with business necessity.

In addition, employers can no longer demand that employees sign any document that doesn't allow them to reveal their wages. They will also be prohibited from any form of retaliation against employees who discuss their salaries with coworkers. However, it should be noted that the National Labor Relations Act already gives em-

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prices for energy, food, and services contributed to the rising inflation.

In part, March's inflation rate was caused by the Covid-19 pandemic and its negative impact on supply chains. Another contributing factor was the significant talent shortage that led to increased wages and more jobs and workers, making it difficult for businesses to meet demand.

But Russia's invasion of Ukraine has caused further economic disruptions, with the worst yet to come. Russia is among the world's top suppliers of oil and natural gas and rare earth minerals required for a wide range of products, so markets will be affected when they are no longer trading.

According to Federal Reserve Chairman Jerome Powell, Russia's role in various global commodity markets means "we're going to see upward pressure on inflation at least for a while."

Rising Prices May Not Be as Temporary as Advertised

According to White House Press Secretary Jen Psaki, the energy crisis is temporary, and markets will eventually stabilize, leading to inflation slowing. However, many are concerned that prices will continue to rise due to what some perceive as the breakdown of globalized trading systems.

Jennifer Hillman, a trade lawyer who teaches international law at Georgetown University, says, "The trading system as we've known it, with the World Trade Organization at its core and with a basic set of rules that everyone traded under, is coming apart. [...] I think we're going to see increasingly blocs, where there are coalitions of the like-minded."

Some may consider it a good thing if companies shift more production back to the US. However, one of the biggest benefits of free trade is that it makes consumer goods more affordable.

The US already has a labor market where demand far outstrips supply, and that will only be exacerbated if companies are forced to move their operations back to the US. This will put further pressure on prices and lead to even higher inflation rates, which will affect the US consumer.

US Workers Experience Record Levels of Stress

An American Psychological Association (APA) poll discovered that the Ukraine crisis has led to Americans experiencing higher stress levels than ever before.

Lynn Bufka, a clinical psychologist and APA member, explained the findings. "We found two-thirds or more are concerned about the economy, money and work. And then 80% or more of our respondents reported that they are very concerned about what's happening in Ukraine."

She explained that the last time so many people cited the same event as the cause of their stress was in 2008, during the recession.

How Employers Can Help

Constantly rising prices and concerns about the impact of the Ukraine crisis are ratcheting up stress levels in the US workforce. Employers need to consider how they can help reduce the impact on their employees.

While raising wages would be the most straightforward solution, some smaller and midsize organizations might not be able to do this. One alternative would be to provide em-

ployees the right to discuss their wages.

The Paycheck Fairness Act also enables plaintiffs to take part more easily in class-action lawsuits challenging systemic pay discrimination. If passed, the Equal Employment Opportunity Commission will need to develop regulations on gathering vital data from employers to allow the enforcement of pay discrimination legislation.

The House of Representatives passed the Paycheck Fairness Act on April 15, 2021. However, it was blocked by the Senate on June 11, 2021.

Although there has been bi-partisan support for the bill since it was first introduced in 2009, some Republicans, such as House Education and Labor Committee Republican Leader Rep. Virginia Foxx (R-N.C.) oppose it. "Instead of treating pay discrimination allegations with the seriousness they deserve, the so-called Paycheck Fairness Act is designed to make it easier for trial lawyers to bring more suits of questionable validity for the purpose of siphoning off unlimited paydays from settlements and jury awards, lining their own pockets and dragging women through tedious, never-ending legal proceedings," she said.

ployees with a wider range of benefits.

Shelley Holt, Payscale's Chief People Officer, explained, "Employees are looking for more than just pay. Pay is a critical factor, but they want workforce flexibility, they want to live better lives, and that is also increasing what [employers] are thinking about for benefits and total rewards."

According to Payscale, more companies are offering remote work options, mental health and wellness programs, childcare subsidies, and four-day workweeks. All these can mitigate the effects of the Ukraine crisis to a certain degree, helping US workers better navigate a world of rising prices and uncertainty surrounding the Russian invasion of Ukraine. ■

Should Preventative Care Be an Essential Benefits Component?

Healthcare is more important than ever to US employees.

Research by One Medical, a primary care organization, and Workplace Intelligence, an HR and advisory firm, reveals that 65% of workers would give up a wide range of perks, including paid vacation, flexible hours, and bonuses for better health benefits.

A critical component of any comprehensive healthcare program is preventive care, which aims to prevent disease by improving people's overall health and wellness. The COVID-19 pandemic had the most harmful effects on people with pre-existing health conditions. An effective preventive care program could help reduce future risks by increasing the population's overall health.

And employers would benefit too. Some of the key benefits to employers include:

Reducing Costs and Improving Productivity

Preventive care can save employers money in the long run. For example, screenings, vaccinations, and health counseling can help employees stay healthy and reduce the risk of developing severe health problems

It can also lead to a decline in absenteeism and presenteeism. According to the Centers for Disease Control and Prevention (CDC), absenteeism alone costs organizations as much as \$225.8 billion per year (or \$1,685 per employ-



ee) in lost productivity.

This figure doesn't consider the losses resulting from employees working when they are sick or under the effects of chronic diseases and other factors, such as stress, depression, and fatigue.

When employers provide preventive care, employee engagement also rises. When workers feel that their employer cares about their health, they are more likely to be engaged in their work.

Research shows that companies with highly engaged employees are 22% more profitable than their counterparts. Additionally, according to Gallup, high employee engagement also reduces absenteeism by 41%.

Improving Attraction and Retention of Talent

With the existing talent shortage, it is becoming increasingly difficult for employers to find and retain top talent. A study by Zenefits

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of 600 US companies revealed that 63.3% of businesses find it more challenging to keep employees than to hire them. Overall, it costs US employers \$2.9 million per day to look for replacement workers.

Offering a competitive benefits package that includes preventative care can help reduce these costs by improving employee retention rates. According to a survey from America's Health Insurance Plan (AHIP), 56% of employees considered health coverage a key factor when deciding if they would remain with their current employer.

Preventative Care Only Works If Employees Use It

Preventative care is only effective if employees are aware of what services they have access to. They also need to understand what is necessary and when.

According to a survey of more than 1600 employees conducted by the Agency for Healthcare Research and Quality in Rockville, Maryland, only 8% of participants accessed preventative services.

One way to encourage employees to use these services is to offer them incentives, such as discounts on health insurance premiums. Other potential incentives include flexible work arrangements, telecommuting, and paid time off for wellness-related activities.

Another way to encourage employees to take advantage of preventative care programs

is by providing educational materials. Unfortunately, many employees aren't aware of the benefits of preventative care and how it can help them avoid serious health problems in the future. They also don't know what services they have access to or how to use them.

Employers can also help by making access to preventative care easier. For example, on-site clinics or partnering with local health providers can make it more convenient for employees to get the care they need when they need it.

Preventative Care Is a Smart Investment with Big Dividends in the Long Run

Offering preventative care is a win-win for both employers and employees. Employees are more productive and engaged. They're also less likely to miss work due to illness.

In addition, employers who offer this perk are seen as being more caring and concerned about the wellbeing of their employees, which can help improve employee morale and make the organization more attractive to job seekers.

Although it is essential to encourage employees to use the services available, employers can help by making it easier for employees to access preventative care.

In conclusion, incorporating preventative care into the employee benefits package is a wise investment for employers that can pay off in the form of a healthier, more engaged, and productive workforce. ■

DOL Announces Increase in FMLA Audits – Employers Should Be Ready

The US Department of Labor (DOL) announced in February that it would be ramping up audits on employers.

The main targets seem to be the logistics and warehouse industries, though no one is safe.

While the DOL made it clear that one of its priorities is to verify compliance with the Family and Medical Leave Act, this increase in audit frequency will also apply to wage and hour audits.

In parallel, the DOL also announced that it would be expanding its Wage and Hour Division with 100 new investigators. This lends further credence to the idea that the DOL will be moving forward with its intentions, and audits will become more frequent.

How to Prepare for an FMLA Audit

To avoid any potential issues with the FMLA audit, you should regularly conduct self-audits. As part of the process, be sure to:

Check Your FMLA Policy

One of the targets of the audit will be your FMLA policy. Be sure it's up to date. For example, your employee handbook (if you have one) should include the FMLA policy.

Furthermore, the policy should cover aspects such as:

- ✦ What requirements must be fulfilled for FMLA leave
- ✦ What procedures are necessary for employees to call to request leave
- ✦ The medical certification process
- ✦ A clarification of what intermittent leave represents
- ✦ What benefits employees are entitled to while on leave
- ✦ Requirements regarding the employee's fitness for work
- ✦ The substitution of paid leave
- ✦ Any prohibitions outside work while the employee is on leave
- ✦ What obligations the employee has as part of the FMLA process
- ✦ A specification of the 12 months that represent an FMLA leave year
- ✦ Any obligations connected to bonding leave /adoption or placement in foster care.

If any of these are missing, update your policy as quickly as possible.

Display the Poster

It should be displayed so employees and any applicants can see it clearly. Be sure it's translated into any languages spoken by a significant portion of your workforce.

Check Your FMLA Forms for Legal Compliance

Any FMLA violation can be expensive, so make sure your forms are in alignment.

Review Your FMLA Practices and Procedures

It's essential to conduct a comprehensive review of all internal FMLA procedures and practices to ensure they align with legal requirements. Some examples include:



- ✦ What procedures do managers use when an employee reports a potentially FMLA-related absence? For example, are they asking the right questions to determine if FMLA is applicable? (Why is the employee absent? What critical part of the job can they not do? Will they seek medical attention?)
- ✦ How is intermittent leave calculated, and does it comply with FMLA regulations?
- ✦ Is FMLA leave being properly designated? Are employees given sufficient notice of said designation?
- ✦ Are your procedures regarding verifying the employee's well-being while on FMLA leave in compliance with regulations? Do you even have such procedures?
- ✦ Are your requests for recertification in alignment with the permitted time frame laid out by the regulations, or are you being overzealous?

If you don't know the answer to these questions, consider seeking expert employment counsel and involving them in your self-audit.

Get Your Records in Order

The DOL requires you to maintain specific data that should be accurate. Therefore, make sure that

you have the following employee data available:

- ✦ Employee identification data
- ✦ Payroll information
- ✦ Dates of any FMLA leaves
- ✦ FMLA time taken
- ✦ Copies of any employee and employer FMLA notices
- ✦ Benefit documentation
- ✦ Certification forms
- ✦ Any disputes regarding the designation of FMLA leave.

You need to keep these documents for a minimum of three years, and they need to be stored separately from the employee's personnel file.

Get Your Employees Up to Speed

A widespread problem for companies is managers who are not aware of the firm's FMLA policy and leave procedures. Many employers have made large payments due to mistakes by the managers.

Protect yourself by providing managers with proper training. It's essential that you take the DOL's warning seriously. Recent announcements indicate they will be ramping up audits, so make sure you're prepared. ■

The CAA's New Broker Compensation Disclosure Rules Are Now in Effect

On December 27, 2021, the new regulations pertaining to broker compensation disclosure laid out in the Consolidated Appropriations Act of 2021 (CAA) went into effect. As a result, brokers must report any form of commission or compensation they expect to receive throughout the year that equals \$1,000 or more, and non-cash compensation that equals \$250 or more.

These disclosure rules target service providers that work with ERISA-covered group health plans. Previously, only brokers and consultants working with retirement plans were obligated to provide these types of compensation disclosure.

What Information Should Be Provided in the Disclosure

According to the law, any broker or consultant who reasonably expects to be directly or indirectly compensated with a cumulative minimum of \$1,000 must disclose compensation equivalent to or greater than \$250 for the services they provided the plan. This applies to any form of payment, whether direct, indirect, transaction-based, or non-cash.

The disclosure will have to include the following information, at a minimum:

- ✦ A description of the provided services
- ✦ A statement regarding whether the broker is currently acting or will act as a plan fiduciary
- ✦ An explanation of any current or future payments to the broker, such as:
 - Fees paid by the plan
 - Indirect compensation arrangements, such as incentive payments, along with the identity of the payee and details regarding the provided services
 - Transaction-based compensations, such as commissions and finder's fees, along with the identities of the payer and payee



- Any compensation connected to the contract termination
- Any conditional compensation.

Brokers can express the compensation they receive using any reasonable method, including in monetary terms, as a formula, or as a per capita charge.

When Should the Disclosure Be Made?

Brokers and Consultants Must submit the disclosure before entering, amending, or extending a service contract. This way, the plan fiduciary can assess whether the compensation is reasonable before the agreement goes into effect or is renewed or extended.

Furthermore, any changes to the compensation data provided must be disclosed as quickly as possible. Generally, the broker must disclose the information within 60 days of identifying the changes. However, if they receive a written request for information, they have 90 days to respond. ■

