BARGAINING BENEFITS

CUPE RESEARCH

DRUG PLANS - CAN WE NEGOTIATE COST SAVINGS?

Drugs are the greatest source of benefit plan cost increases, so, employers target drugs for cost saving schemes. Even though the research shows that the primary source of skyrocketing prices is the new "me-too" drugs and not increased usage, employers usually seek solutions that download costs to plan members.

The more drug costs are passed on to individuals, the more people will face difficult, and often unpalatable, choices about whether to fill prescriptions. A recent survey conducted by Price Waterhouse Coopers discovered that one in ten Canadians did not fill a prescription in the previous year because of the cost. *(*Source*: Canadian Drug Manufacturers Association, Viewpoint, Winter 2000)*

The consequences of not filling prescriptions or skipping doses are significant because conditions like heart disease, diabetes, and hypertension can worsen without prescribed medication. In the end, the savings achieved by downloading costs to employees is transferred in even greater proportion to health expenditures borne by governments and taxpayers to deal with medical conditions that were poorly treated. So, employer savings in private plans can translate into increased costs for the public health system.

The major reason group benefit plans work, (and the principle behind group insurance) is that healthy people help provide coverage for not so healthy people. None of us know when we might be the "not so healthy"; so paying for benefits now ensures they are available when we need them.

When employers demand cuts, our job is to make sure that cost alone is not the sole criteria. **Our goal in negotiating benefits is to prevent erosion of benefits to members, minimize any negative effects, and ensure the principles of group insurance are maintained.**

At the Table

Some locals may choose to negotiate a joint benefits committee, rather than trying to work out the plan details at the bargaining table. *(See Collective Agreement Language Section of this Bargaining Benefits Series for sample language.)*

In order to challenge the employer's cost estimates, bargaining committees need access to plan information such as number of employees covered, how many full time/part time, costs to date etc. A clause in the collective agreement can obligate the employer to reveal plan statistics and how cost calculations are made. *(See Collective Agreement Language Section of this Bargaining Benefits Series for sample language.)*

The employer will likely come to the table with proposals that pass on costs to plan members such as:

- **Increasing deductibles** – The deductible is a lump sum payment payable up-front every year, before the carrier will reimburse eligible expenses. It is similar to the amount that auto insurance policy holders must pay before they are reimbursed for a claim.

- **Increasing co-payments –** Co-payment refers to the share paid by employees. In many CUPE collective agreements, the union and the employer share the cost of benefit premiums, often "50-50". Any increase in the employee share of premiums passes more of the cost of providing the benefit on to employees.

- **Maintaining an outdated fee guide -** If the fee guide is out of date, plan members must pay the difference between what the professional charges and what their plan reimburses, resulting in more costs to eat into their take-home pay.

- **Introducing multi-tier formularies –** Tiers require employees to pay different rates for different drugs. For example, employees are forced to pay a larger share of more expensive or "lifestyle" drugs like Viagra, and a smaller share of cheaper and/or generic drugs. This unfairly disadvantages plan members whose health requires the higher cost drugs.

- **Restricting formularies –** limits the drugs available so that some expensive drugs and/or generics are excluded. Until recently, any drug formulary restrictions tended to be "rules-based" - for example, drugs that require a doctor's prescription are covered while "over-the-counter" (OTC) drugs are not. However, employers are now manipulating formularies to reduce costs. "Managed formularies" is a trend imported from the U.S., which imposes rules that limit access to drugs, or guidelines that encourage certain prescribing practices. Managed formularies exist to save money. Formularies are usually developed by a benefits management company for the health insurance company.

- **Controlling how drugs are prescribed**:
  - *Pre-approvals* - For certain medications, the physician must submit information to an independent reviewer, justifying the "medical necessity" of the medication.
  - *Trial Prescriptions* – Under a trial prescription program, pharmacists dispense small amounts of a drug the first time it is prescribed. If the treatment is successful, the remainder of the prescription is dispensed.
  - *Step Therapy* – In this case the plan only covers drugs when they are used in accordance with a standard treatment protocol i.e. a specific drug must be used first, and if it is not successful then another (more expensive) drug may be used.

- **Retiree Benefits** - Changes to accounting rules in January 2000, forced employers to account for the future costs of retiree benefits, which can show up as a huge liability in their books. Even if insurers are no longer willing to insure retirees, the employer has a legal obligation to provide coverage. For that reason along with escalating costs, employers are seeking to cut retiree benefits. However, any decision to reduce retiree benefits entails legal risks. While class action suits are not common in employment situations, this promises to be fertile new ground for litigation.
  - Benefits are even more valued when retirees face declining incomes, and new medical expenses, so we can expect to see strong resistance to erosion of these benefits from retirees. However, since they cannot choose to resign, or obtain other employment to mitigate their losses, the legal route is often their only option.
  - The courts have ruled against employers' right to eliminate retiree benefits. In a 1993 case between CAW and Dayco, the Supreme Court ruled that retiree benefits were vested benefits that could not be taken away from retirees. As a result, the benefits of the current retiree population cannot be eliminated or cutback unless the employer has reserved the right to amend its plans and has communicated this power to employees.

- Legislation in some sectors (e.g. Ontario school boards and municipalities) prohibits employers from making contributions towards the cost of retiree premiums since retirees are not considered to be employees.

(For more information on the above, check out the "What to Watch For" in this Bargaining Benefits Series)

Here are some other options to consider:

1) **Formularies** – The formulary is the list of drugs covered by the plan. Formularies have an impact on costs AND patient care.
   - Normally, formularies are developed by an independent, highly qualified group of health care professionals. We advocate a formulary based on drug safety, clinical effectiveness, and cost effectiveness, that is independent of drug manufacturers' influence.
   - Negotiating what is included in the formulary may best be left to health professionals. However, locals may want to consider negotiating some criteria to ensure the formulary meets members' needs. For example, the formulary should be as open as possible, include generic substitution, and include minimal (if any) tiers, co-payments, "me too" drugs.

2) **Alternative medicine** - Alternative medicine includes services like massage therapy, acupuncture, yoga as well as homeopathic (naturopathic) medicines. Despite a growing acceptance by physicians and the general population of alternative forms of medicine, they are not always covered in group plans. For example, massage and chiropractic services may replace medications for back pain and offer substantial savings to the drug benefit plan.

In 2003, CUPW negotiated the Joint Benefits Pilot Project that aims to address the wish of many members to gain more access to alternative medicines and therapies, and concerns about the rapidly rising cost and increased use of prescription drugs. The pilot tested the use of acupuncture for lower back pain – a common complaint among postal workers. The results are due to be released soon.

3) **Use of generic drugs** - Generic drugs should be used whenever possible to save costs. Substituting them for the higher priced patent drugs is a very efficient cost-saver. It is important to remember, however, they cannot be substituted in all cases and that physicians will sometimes insist on the patent brand of drugs.

4) **Preferred Provider Networks (PPNs)** –require a pharmacy or group of pharmacies to provide service at a fixed, lower fee for both ingredients and dispensing.
   - The pharmacies will also dispense up to 90 days of a medication for one dispensing fee.
   - The arrangement with the PPNs is negotiated between the insurer and the pharmacy or pharmacies.
   - The pharmacies must be easily accessible to employees, geographically and in terms of hours of business.

5) **Direct Delivery (Mail Order) Pharmacies** – For long-term medications, direct delivery or mail order, pharmacies offer low dispensing fees and controlled drug cost mark-up.
   - Medi-Trust is one bulk supplier of drugs can be used to supply some drugs. Its dispensing fee is 1/3 of that of most pharmacists. Their costs are lower because they are warehouse operations selling larger quantities of product than retail outlets.

- It is important that the wording of Master Policies is clear as to how and when mail order pharmacies are to be used. For example, if there are delays in receiving mail order drugs, employees should be allowed to buy their drugs locally at no extra cost.
- The use of mail order pharmacies like Medi-Trust should not be embraced in such a way that it puts the local pharmacist out of business.

6) Electronic Drug Cards

- Electronic drug cards allow employees to directly purchase drugs at their local pharmacy.
- The advantage is that employees do not have to pay the total cost of drugs and then wait two to three weeks for reimbursement from the insurer. This approach increases the likelihood that the prescription will be filled because the requirement to pay up front often acts as a deterrent for those who are less able to pay.
- The disadvantage is that the advent of Electronic Data Interchange (EDI) allows pharmacists who submit employee claims electronically to interact directly with the insurance company's claims adjudication system. Insurers have taken advantage of this technology to further restrict access to drugs by building into the system new cost-containment measures that can further restrict access to certain drugs.

7) Risk-Pooling – Wherever possible, locals should look for opportunities to join with other CUPE locals and other unions to bargain group insurance agreements.

- Larger plans reduce costs by increasing the scale of plan participation and reducing administration costs. For example, within the Nova Scotia school board sector, CUPE, NSGEU, SEIU and the employer group are discussing the possibility of moving to a single, province-side, jointly-trusteed structure for group benefits.

8) Coordination with other benefit plans Where a plan member's spouse is covered by another plan can reduce costs. The total combined coverage should be maximized in favour of the employee and the arrangement should be bargained and put in writing.

9) Government Involvement in Achieving Economies of Scale – Drugs are purchased separately by provincial governments, hospitals and individuals, which precludes bulk purchasing and undermines negotiation of lower prices. Australia manages to buy drugs at a cost 10 percent below Canada's by having a single national buyer, and New Zealand achieved 50 percent savings using coordinated bargaining methods. *(*Source: *Lexchin, J. (2003). Intellectual Property Rights and the Canadian Pharmaceutical Marketplace: Where Do We Go From Here? Ottawa: Canadian Centre for Policy Alternatives.*)

The move to bulk purchasing in some Canadian provinces is a step forward, but a national Pharmacare program would achieve far greater savings. Locals can impress upon employers the need for them to jointly lobby provincial governments to use their "economies of scale" power to negotiate lower drug costs with drug companies.

- The government could act as a kind of broker, passing on the negotiated savings in drug costs to consumers by selling drugs at a cheaper rate to retailers.

- As well, both the federal and provincial levels of government should be lobbied to develop policies that encourage the development of generic drugs.

10) Wellness programs – Traditional medicine, and by extension employer sponsored benefit plans, focuses on diagnosis and treatment instead of prevention. A growing number of employers are looking to wellness programs as a way to reduce costs. Wellness programs are one of the few initiatives that can significantly reduce claims without cutting back on benefits. In the U.S. Johnson and Johnson watched its absenteeism rate fall by 15% within two years of introducing its corporate fitness program; after three years, hospital costs for the firm had fallen by 34%. *(*Source: *Human Resources Executive,* The Economic Benefits of Regular Exercise, IHRSA, 1996)

A cautionary note – wellness programs should not be used as a band-aid to protect bad employer policies and practices that cause worker stress in the workplace. Wellness programs risk treating employees differently based on their physical abilities, which has a negative effect on persons with disabilities or those who have hereditary conditions.

Until we have a national Pharmacare plan, we're stuck with existing provincial and private plans, and trying to fend off employer attacks that influence employees' health and well-being. *(For more information about Pharmacare, check out the Canadian Health Coalition paper called "More for Less: A National Pharmacare Paper" at cupe.ca)* The above options can help resist employer attempts to pass on costs to our members, but CUPE will continue to pursue the bigger picture solution of a national Pharmacare plan to ensure that drug costs are shared the same way as other health services.

CUPE's bargaining Benefits series also includes:

- An Overview of the Issues
- Checklist for Benefit Plans
- Collective Agreement Language
- Flexible Benefits
- Health Spending Accounts
- What to Watch For
- Why are Drug Costs Escalating?

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