



Great Lakes Employers Association
Group Marketing Services, Inc.

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Benefit Plan Developments

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Pre-Employment Physicals – Just What the Doctor Ordered?

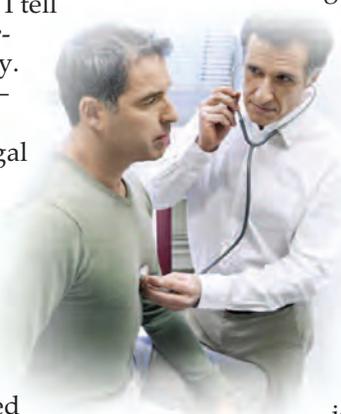
Written by Rebecca Strauss, Esq., Miller Johnson Attorneys

Many employers routinely require pre-employment physical exams. They require exams to make sure the applicant can handle the physical requirements of the job (especially for physically demanding jobs). Some employers also want to benchmark employees' health so that if issues arise later down the road, it is easier to determine if the issues were caused by work. As an employment attorney, I tell clients that pre-employment physicals are perfectly lawful, so long as they are done lawfully. The fact that there are lawful – and unlawful – ways to implement pre-employment physical exams should not scare off employers. The legal requirements are not terribly burdensome.

Compared to other restrictions on the types of medical information about which an employer can ask once an employee begins work, pre-employment physicals can be much broader. Pre-employment physicals are not limited to questions about the specific job, but the questions should be related to health issues that are relevant to work in general. This is why the timing of the exam, as detailed below, is so important. The “pre” in “pre-employment” physical is critical to remember.

Employers who do choose to require pre-employment physical exams should also keep these other guidelines in mind:

• **Timing:** A pre-employment physical is lawful only if an employer has already made an offer to the job candidate. The offer may be conditional on the candidate passing the physical exam. The exam must be completed before the employee begins working. Once the employee begins work, an employer may require a medical exam only if it is job related and consistent with business necessity.



• **Consistency:** Medical examinations must be required for all candidates in the same job category. However, it is ok to ask specific follow-up questions to an individual candidate if the questions are follow-up questions to the medical examination. The Equal Employment Opportunity Office (EEOC) gives the following example: At the post-offer stage, an employer asks new hires whether they have had back injuries, and learns that some of the individuals have had such injuries. The employer may give medical examinations designed to diagnose back impairments to persons who stated that they had prior back injuries, as long as these examinations are medically related to those injuries.

• **Rejecting applicants because of the pre-employment physical:** A decision to reject an applicant should be job related and consistent with business necessity. This means an employer should make an individualized decision based on the specific job, and the specific medical issue. For instance, if the medical exam reveals that the applicant has a lifting restriction of 25 pounds, the employer should carefully consider whether the position requires the employee to lift 25 pounds. Moreover, the employer should consider, by talking to the applicant, whether the applicant could still do the job with a reasonable accommodation.

• **Keep it private:** Medical information must be kept confidential. This includes pre-employment medical exams, as well as medical information employers obtain during employment. Employers should keep separate medical files that are not part of personnel files.

Authorization: Employees should sign an authorization for the release of their health information to the employer.

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For more information, please contact:
Group Marketing Services, Inc.
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How Did The First Monday of September Become Known as Labor Day?

Monday September 3, 2018 is the National Holiday...

Labor Day Legislation – Through the years the United States gave increasing emphasis to Labor Day. The first governmental recognition came through municipal ordinances passed during 1885 and 1886. From these, a movement developed to secure state legislation. The first state bill was introduced into the New York legislature, but the first to become law was passed by Oregon on February 21, 1887. During the year four more states – Colorado, Massachusetts, New Jersey, and New York – created the Labor Day holiday by legislative enactment. By the end of the decade Connecticut, Nebraska, and Pennsylvania had followed suit. By 1894, 23 other states had adopted the holiday in honor of workers, and on June 28 of that year, Congress passed an act making the first Monday in September of each year a legal holiday in the District of Columbia and the territories.

Founder of Labor Day – More than 100 years after the first Labor Day observance, there is still some doubt as to who first proposed the holiday for workers.

Some records show that Peter J. McGuire, general secretary of the Brotherhood of Carpenters and Joiners and a cofounder of the American Federation of Labor, was first in suggesting a day to honor those "who from rude nature have delved and carved all the grandeur we behold." But Peter McGuire's place in Labor Day history has not gone unchallenged. Many believe that Matthew Maguire, a machinist, not Peter McGuire, founded the holiday. Recent research seems to support the contention that Matthew Maguire, later the Secretary of Local 344 of the International Association of Machinists in Paterson, N.J., proposed the holiday in 1882 while serving as secretary of the Central Labor Union in New York. What is clear is that the Central Labor Union adopted a Labor Day proposal and appointed a committee to plan a demonstration and a picnic.

The First Labor Day – The first Labor Day holiday was cele-

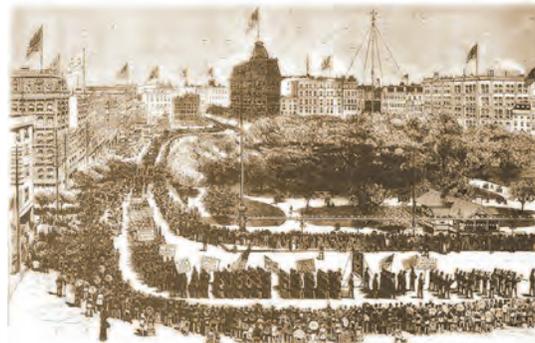
brated on Tuesday, September 5, 1882, in New York City, in accordance with the plans of the Central Labor Union. The Central Labor Union held its second Labor Day holiday just a year later, on September 5, 1883.

In 1884 the first Monday in September was selected as the holiday, as originally proposed, and the Central Labor Union urged similar organizations in other cities to follow the example of New York and celebrate a "workingmen's holiday" on that date. The idea spread with the growth of labor organizations, and in 1885 Labor Day was celebrated in many industrial centers of the country.

A Nationwide Holiday – The form that the observance and celebration of Labor Day should take was outlined in the first proposal of the holiday – a street parade to exhibit to the public "the strength and esprit de corps of the trade and labor organizations" of the community, followed by a festival for the recreation and amusement of the workers and their families. This became the pattern for the celebrations of Labor Day. Speeches by prominent men and women were introduced later, as more emphasis was placed upon the economic and civic significance of the holiday. Still later, by a resolution of the American Federation of Labor convention of 1909, the Sunday preceding Labor Day was adopted as Labor Sunday and dedicated to the spiritual and educational aspects of the labor movement.

The vital force of labor added materially to the highest standard of living and the greatest production the world has ever known and has brought us closer to the realization of our traditional ideals of economic and political democracy. It is appropriate, therefore, that the nation of the United States of America pay tribute on Labor Day to the creator of so much of the nation's strength, freedom, and leadership – the American worker.

Source: United States Department of Labor www.dol.gov



1st Labor Day Parade on September 5, 1882 in New York City

Cumulative Radiation Exposure From Imaging Scans Should Be Weighed Against The Benefits Say Researchers

By Catharine Paddock PhD

USA researchers found that repeated exposure to ionizing radiation from medical imaging such as x-rays, fluoroscopy, computed tomography (CT) and nuclear medicine scans can accumulate over time to substantial cancer-causing doses, and recommend that doctors and patients always weigh the benefits of imaging against the risks. The study was the work of lead author Dr. Reza Fazel and colleagues and appeared in the New England Journal of Medicine. Fazel, a cardiologist in the Department of Medicine at Emory University School of Medicine in Atlanta, Georgia, told the media that: "We know that the use of medical imaging procedures in the US has increased rapidly over the past three decades, resulting in higher average radiation doses for individuals. "For the study, Fazel and colleagues examined claim data covering nearly one million adults aged 18 to 65 living in five regions

across the US and who were insured with United Healthcare. From the claims they then estimated the overall rates of radiation exposure for each patient over a three year period covering 2005 to 2007.

Different types of imaging procedures expose patients to different doses of ionizing radiation. Each patient's claim record shows which types of procedure they claimed for, thus for each patient the researchers were able to estimate the total accumulated dose over the period they examined.

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Early Mothers Program

Group Marketing Services, Inc. has NOW implemented a new, cooperative program for first time Mothers-to-be, or those to-be once again.

This is a companion program that starts with a phone conversation about what to expect during the developing pregnancy and the tools available from the *Early Mother's Program*.

A book from the American College of Obstetricians and Gynecologists, "Your Pregnancy and Childbirth Month to Month," will be provided as our gift to Mom.

This book provides authoritative knowledge from the experts at the American College of Obstetricians and Gynecologists, the leading women's health organization. In plain, easy-to-understand language, this new fifth-edition empowers you to make important decisions about your and your baby's health and well-being. It's the one source you can rely on for essential information about each month of pregnancy and beyond:

- A fully illustrated month-by-month guide showing your baby's development and changes to your body.



- Descriptions of each prenatal visit and the key tests you may need.
- Complete information on labor and delivery.
- Clear, up-to-date guidance on prenatal genetic testing.
- Expert advice on prenatal nutrition and how to feed your baby.
- Discussion of special concerns, such as multiple pregnancy and complications.

Learn more about this new resource and other pregnancy advice by visiting: www.yourpregnancyandchildbirth.com.

Further, the Mother to-be will be introduced to our *Early Mother's Program*, that is a companion throughout her pregnancy.

There is a nurse provided to help follow up and monitor the pregnancy progress. The nurse will be a contact, providing information and to answer pregnancy concerns, expectations and preparations for both the Mother and new born.

It is important to receive information about who to contact, early in the maternity process.

Please forward the name and contact information to: Jacquea@groupmarketingservices.com or telephone at 800-632-5015, extension 108.

When To Apply For Dependent Coverage

When you acquire a dependent through marriage, birth or adoption, it is important to apply for Dependent Coverage by submitting a completed and signed Enrollment Form GP2917 within 30 days after marriage, birth or adoption.



Required Reviewing of Employee Flexible Spending Account Claim Payments

Can We Use a "Sampling" Approach to Reviewing Claims Under Our Flexible Spending Arrangements?

QUESTION: Do we need to review every claim that is submitted under our cafeteria plan's health FSA and DCAP before providing reimbursement? We do this now, but we could save time and administrative costs by automatically reimbursing claims for very small dollar amounts without review, or by reviewing only a sample of the claims incurred at medical or dependent care providers on the assumption that almost all of these claims are for eligible expenses.

ANSWER: Generally, all health FSA and DCAP claims must be substantiated with information from an independent third party (i.e., a party independent of the employee and the employee's spouse and dependents) describing the service or product, the date of the service or sale, and the amount of the expense. The 2007 proposed cafeteria plan regulations also contemplate independent claims adjudication, meaning that every claim must be reviewed by an entity other than the participant. These requirements are designed to ensure that health FSAs and DCAPs reimburse only legitimate claims. (Other require-

ments also apply.) IRS rules regarding debit card programs also require that claims be substantiated and reviewed, although certain categories of expenses are treated as automatically substantiated without any receipts or review beyond the swipe.

Because all claims are subject to the claims substantiation requirements, administrators cannot review only a percentage of claims (i.e., sampling) or automatically reimburse claims that are below a "de minimis" dollar threshold or that appear to be from medical providers. These actions jeopardize the income exclusion that would otherwise apply to reimbursements from these arrangements under the Code, and could cause all reimbursements to be taxable—not just those approved using the impermissible techniques.

The 2007 proposed cafeteria plan regulations also provide that if a health FSA or DCAP fails to comply with applicable substantiation requirements, all employees' elections between taxable and nontaxable benefits under the entire cafeteria plan will result in gross income.

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FSA and DCAP Claims Review/Payment Guidelines

Every claim (Expense) that is submitted under an Employer's cafeteria plan's health, Sec. 1.25 arrangement (Flexible Spending Arrangement) FSA and (Dependent Child and Parent) DCAP must be reviewed for proper payment before providing reimbursement.

Generally, all health FSA and DCAP claims must be substantiated with information from an independent third party (i.e., a party independent of the employee and the employee's spouse and dependents) describing the service or product, the date of the service or sale, and the amount of the expense. Original receipts are required by the Group Marketing Services, Inc. FSA Plan administration.

The 2007 proposed cafeteria plan regulations also contemplate independent claims adjudication, meaning that every claim must be reviewed by an independent entity. These requirements are designed to ensure that health FSAs and DCAPs reimburse only legitimate claims found on the IRS allowed listing of Eligible Items. (Other requirements also apply.) IRS rules require that each claim be substantiated and reviewed,

including debit card programs.

Because all claims are subject to the claims substantiation requirements, administrators cannot review only a percentage of claims (i.e., sampling) or automatically reimburse claims that are below a "de minimis" dollar threshold or that appear to be from medical providers. These actions jeopardize the income exclusion that would otherwise apply to reimbursements from these arrangements under the Internal Revenue Code and could cause all reimbursements to be taxable for all Plan Participants (not just those approved using the impermissible techniques). The 2007 proposed cafeteria plan regulations also provide that if a health FSA or DCAP fails to comply with applicable substantiation requirements, all employees' elections between taxable and non-taxable benefits under the entire cafeteria plan will result in gross income.

Access your FSA balances and usage 24/7 on our website: <https://www.groupmarketingservices.com/logon.html>.

Illicit Drug Use Rises For Workers

Fewer U.S. workers tested positive for prescription painkillers last year, but cocaine, methamphetamine and marijuana use surged, according to new data from Quest Diagnostics, one of the largest drug testing laboratories in the U.S.

The share of American workers and job applicants testing positive for potentially illicit drugs in 2017 was 4.2%, holding steady to the prior year, the data shows. Quest analyzed more

than 10 million urine tests conducted on behalf of employers.

"It's striking as we look at all this data and see continuing increases in the use of illicit drugs. That's a concern for everyone," said Barry Sample, Quest's senior director for science and technology.

The federal Drug-Free Workplace Act of 1988 ushered in an era of job-related drug testing, prompting a rapid decrease in positive tests.

Add The "Floor Pretzel" To Your Walk Routine

Do this after you walk to stretch the buttocks, hips and outer thighs.

Lie on your back with your right knee bent and foot on the floor.

Rest your left ankle at the top of your right knee. Your left knee should point toward the wall.

Grasp the back of your right thigh with both hands.

Keep your shoulders down and back, relaxing them against the floor.

Slowly lift your right foot off the floor until you feel the stretch in your left hip and buttock. Hold.

Return to the starting position. Repeat with your left knee bent, and your right ankle resting on your left kneecap.

© Harvard University, originally published April 2016



Continued Expansion of GLEA Maintenance Choice Rx Delivery Convenience

The newly expanded Maintenance Choice continues to offer members the option to fill their 90-day prescriptions at a CVS Pharmacy or through CVS Caremark Mail Service and adds the convenience of On-Demand and 1-2 day delivery.

As with On-Demand Delivery, 1-2 day delivery will offer members the ability to have their 30- or 90-day prescriptions delivered from any of the 9,800+



CVS Pharmacy locations (eventually including Target locations) later this summer. Delivery will be made by USPS, in secure and tamper-evident packaging.

We have made it simple for members to securely transfer their prescriptions covered by the plan benefit to a CVS Pharmacy with our new easy prescription transfer tool. For more information, visit <http://www.Caremark.com/MoveMyMeds>.