

The Labor Relations Advisor

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Health Care Costs Rise At Steady Pace

Employers' health insurance costs increased by more than 6 percent in 2006, maintaining the 2005 rate of increase, according to a recent survey by Mercer Health & Benefits LLC. Following a whopping 14.7 percent growth in health benefit costs in 2002, the rate of increase slowed for three years until 2006. The Mercer study sampled almost 3,000 public and private employers in the late summer of this year. Highlights of the study's findings for 2006 include:

- The average cost of health benefits reached \$7,523 per employee.
- Companies with fewer than 500 employees experienced the largest increase in health care costs – an average of 7 percent growth.
- Six percent of employers nationwide offered a consumer-directed program, such as a health reimbursement or health savings account,

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Pilot's Reserve Time Not Counted for FMLA Eligibility

A pilot's paid time on reserve duty does not count towards hours worked for purposes of coverage under the Family and Medical Leave Act (FMLA), a federal appeals court has ruled (*Knapp v. America West Airlines*, 10th Cir., No. 05-4322, unpublished opinion 11/24/06). The appeals court affirmed a lower court's summary judgment to America West Airlines, finding that the plaintiff had not shown that she worked the required 1,250 hours during the previous 12 months to be eligible for FMLA leave.

America West pilot Susan Knapp requested FMLA leave for several periods in the fall of 1999 in order to obtain medical treatments for her son. The company granted some of her requests but denied others, due to insufficient medical justification. Knapp resigned in the summer of 2000. In the fall of 2001, Knapp sued the airline, charging that it violated the FMLA by denying her request for leave. The United States District Court for the District of Utah granted summary judgment to the airline, ruling that the pilot had worked too few hours in the prior 12 months to become eligible for FMLA. According to the district court, the pilot had accumulated only 764 hours on active duty, training, and on layovers.

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IPO Triggers Payout to Former Boeing Workers

A "Union Equity Program" will place a total of \$246 million in the pockets of 4,000 employees who agreed to a five-year concession contract with a former Boeing aircraft plant. The workers, represented by the International Association of Machinists (IAM), agreed in 2005 to cut their pay by 10 percent and to reduce total labor costs by \$200 million.

The parties crafted the equity program following the sale of the Boeing facility in Wichita, Kansas to Onex Corporation, the parent company of Spirit AeroSystem. In exchange for concessions at Boeing, the payout plan was designed to provide cash or stock to employees in the event that Spirit's initial public offering (IPO) produced a minimum 15 percent annual profit to the initial investors. The IPO met the threshold, triggering an initial payout of approximately \$34,550 to each employee by year-end 2006. In March 2007, each of the workers will receive stock valued at \$26,884. Payments are based on the initial stock price of \$26 per share. ■

Health Care Costs *(continued from page 1)*

compared to two percent in 2005. Among companies with 500 or more workers, 11 percent offered the option.

- Consumer-directed plans cost an average of \$5,770 per employee, compared to \$6,616 for HMOs and \$6,932 for PPO plans.

- Care management features are included in 22 percent of all plans and more than half of the plans offered by large employers.

- Cost-containment efforts are evolving away from cost-shifting. Less than one-third of surveyed companies plan to shift costs to employees or to reduce benefits in the near future. By contrast, about 43 percent of employers expect care management and consumer-directed programs to play an important role in dampening costs.

- The cost of prescription drug benefits grew by 10.4 percent, slower than the 11.5 percent increase the previous year. The establishment of multiple co-payment levels moderated the cost increases by encouraging employees to purchase generic drugs.

- Only 19 percent of large employers offered health benefits to Medicare-eligible retirees, down from 21 percent in 2005. ■

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Mesaba Achieves Restructuring Deals

After a year of negotiations, pilots, flight attendants, and mechanics at Mesaba Airlines have approved agreements marking the completion of the company's labor restructuring. The contracts became effective December 1st. The deals with the Air Line Pilots Association (ALPA), the Association of Flight Attendants (AFA) and the Aircraft Mechanics Fraternal Association (AMFA) trim costs by about 15.8 percent over four years. The company's dispatchers, represented by the Transport Workers' Union, approved a concession agreement in March 2005. Mesaba filed for bankruptcy October 13, 2005.

Although ALPA, AFA, and AMFA provided for different pay cuts and other specific changes, they share several similar provisions, including pay increases after the amendable dates, and extension of the contracts with additional pay raises based on fleet growth. Each group agreed to four-year contracts amendable December 1, 2010. Effective on the amendable date and annually thereafter, wage scales will be increased by 1.5 percent until new collective bargaining agreements are reached. If the company meets certain benchmarks in increasing the number of aircraft, the four-year contracts will be extended to 5 ½ years with an amendable date of June 1, 2012. Should this occur, the pilots, flight attendants and mechanics will receive across-the-board increases of 3 percent on December 1st of 2010, and 2 to 3 percent on December 1st of 2011. Should the contracts be extended to 2012, wage scales will rise by 1.5 percent on December 1, 2012 and each December 1st thereafter until new agreements are negotiated.

The new contracts also provided for cuts in the airline's health insurance costs by requiring employees to pay a 33-percent share of the premium, up from the current 30 percent. Deductibles, co-pays, and out-of-pocket limits will remain unchanged until 2009; at that time these plan designs can increase by the greater of 5 percent per year or the industry average.

In return for concessions, all Mesaba employees will participate in a profit sharing plan effective December 1, 2006. Employees will share an earnings pool calculated at 20 percent of pre-tax profit margin above 4 percent, plus 5 percent of pre-tax profit margin in excess of 8 percent, plus 5 percent of pre-tax profit margin over 12 percent. The pool will be allocated to each eligible employee based his or her portion of total wages.

Highlighted below are provisions specific to each of the three new agreements:

The ALPA pact provides for the reduction in pay rates of 5 percent to 5.5 percent, depending on the type of aircraft flown, and the elimination of 4-percent increases previously scheduled for January 2007 and 2008. Pay rates will increase for most pilots by 2.5 percent in December 2007 and 2008, and by 1 percent in December 2009, with additional wage recovery increases based upon fleet expansion. The parties also agreed to implement preferential bidding and to extend captains' training freezes from 12 months to 24 months for the first four contract years. Per diem will remain at \$1.55 per hour until the fourth contract year, when it will rise to \$1.65 per hour. Pilots who currently accrue two or more weeks of vacation will forgo one vacation week for calendar year 2007.

AFA agreed to a 2.7 percent wage cut effective December 1st resulting in a pay scale ranging from \$15.08 to \$21.64 per hour. The contract provides across-the-board pay raises of 1 percent in December 2008 and 2009. For the next four years, per diem will be reduced from \$1.50 to \$1.35 per hour, and longevity accrual will be halved. Other changes include trimming vacation pay from 20 hours to 18 hours per week, and eliminating holiday pay.

Mechanics agreed to a pay cut of 8.5 percent, resulting in a base pay rates of \$10.69 to \$19.67 per hour. One percent increases will follow in December 2007, 2008, and 2009. The four hour call-in guarantee was eliminated, and the holiday premium was reduced to straight time pay. For the next four years, annual sick leave accrual will be reduced from 72 hours to 48 hours, sick day pay will be cut to 75 percent of pay, and vacation accrual will be reduced by 10 hours at each level. Effective December 1, 2010 the sick leave and vacation provisions will snap back to former levels. ■

NEWS BRIEFS...

FURLOUGHS/RECALLS... To facilitate international expansion **Delta** plans to recall 1,000 laid-off flight attendants in 2007, in addition to 250 flight attendants who returned to work in September. Approximately 3,800 flight attendants are now on furlough. The airline also announced the recall of 700 maintenance employees beginning in mid-December, in addition to 200 mechanics that have been recalled over the past few months. Delta has recalled 130 pilots so far this year... After recalling 830 laid-off flight attendants, **Northwest** is hiring 250 new flight attendants to begin training in January. The carrier also plans to offer recall to its 700 furloughed pilots by the end of 2007. Northwest requires the recalls and new hires due to modest operational expansion and to cover attrition...More than 350 flight attendants will attend **Republic Airways** training classes over the next few months as the airline increases staffing to accommodate expanded flying...**NEGOTIATIONS...** **Alaska Airlines** and ALPA plan to open negotiations in January 2007, prior to the amendable date of May 1, 2007...**Comair** flight attendants have approved their \$7.9 million restructuring pact by a margin of 80 percent...

PHI helicopter pilots have voted overwhelmingly to end their 51-day strike. The OPEIU members describe their return-to-work offer as "a change in our strategy..."

REPRESENTATION... **Allegiant** flight attendants rejected AFA-CWA representation on December 4. Only 48 of the 142 eligible voters cast ballots for the union...**Frontier** flight attendants rejected representation by the IBT on November 30. Of 887 eligible voters, 334 voted for the Teamsters... **MISCELLANEOUS...**A group of 3,100 retired **Delta** pilots will receive an additional \$719 million for pension benefits lost when the pilots' pension plan was terminated during the bankruptcy proceedings. The group, known as DP3, was paid \$82 million earlier this year for pre-termination claims...The Senate has confirmed Elizabeth Dougherty to replace Ed Fitzmaurice as a member of the **NMB**. Dougherty has completed the remaining six months in Fitzmaurice's term, and will serve the new term running from July 2007 through July 2010. Current member Harry Hoglander was also reconfirmed for a term ending July 2008, but the Senate has not acted on the Presidential nomination of Peter W. Tredick to fill the seat vacated by Read Van de Water. ■

Pilot's Reserve Time *(continued from page 1)*

Knapp argued that her reserve service also should be counted as hours worked, and that doing so would bring her total work time well above the minimum hours required for FMLA eligibility. She pointed out that reserve duty is paid time, and the "on-call" status imposed stringent limitations on her personal activities. For example, while on reserve she was restricted from drinking alcohol, was required to remain phone-available, and had to be able to report in uniform within one hour of America West's call.

Judge Wade Brorby rejected Knapp's arguments. He found that reserve duty did not sufficiently restrict her activities that the time should be counted as work. He noted that the plaintiff had not provided any evidence of how frequently she was called in to work while on reserve. Even though her "on-call" periods were considered paid duty time by the company, "compensation is but one factor to be considered [for FMLA eligibility], however, and it does not necessarily require on-call time to be considered hours worked." ■

Houston Janitors Settle First Contract

Approximately 5,300 janitors in Houston, Texas will receive wage increases and first-time health insurance under a new three-year pact negotiated by Local 5 of the Service Employees International Union (SEIU). The office cleaners currently work three to four hours per night earning an average wage of \$5.30 per hour, with no benefits. The workers ratified the agreement in late November, following a month-long strike. Signing this initial agreement are five janitorial firms whose employees are responsible for cleaning almost 70 percent of the city's office space.

"The janitors won SEIU representation in December 2005 through card-check recognition, following one of the largest union organizing victories for private sector workers in the history of Texas."

The new agreement provides pay rates up to \$6.25 per hour effective January 1, 2007. Employees will receive deferred increases of \$1.00 per hour on January 1, 2008, and \$.50 per hour on January 1, 2009. Beginning in 2009, the janitors will be able to purchase group health insurance coverage for the first time. Monthly premiums will be set at \$20 for individual coverage and \$175 for family benefits. The parties agreed to extend work shifts to six hours per night instead of the current four-hour period. The contract also provides for vacation and six paid holidays.

The janitors won SEIU representation in December 2005 through card-check recognition, following one of the largest union organizing victories for private sector workers in the history of Texas. As part of the organizing drive in July 2005, janitors employed by Houston's ABM Janitorial conducted a 10-day strike, prompting office cleaners working for that company in 24 other cities to honor picket lines in their own locales. ■

PBGC Improves Its Finances

The Pension Benefit Guaranty Corporation (PBGC)'s program for single-employer plans has improved its financial condition in 2006, largely due to the airline relief provisions in the Pension Protection Act. That law slashed the amount of "probable" liabilities shown on the agency's balance sheet by permitting bankrupt airlines with frozen pension plans to have extra time to fund their plans. Higher interest rates, and improved credit ratings and plan funding among some employers also reduced the risk of claims. Under funding of insured single-employer plans dropped to \$350 billion, down from \$450 billion in 2005. The PBGC narrowed its deficit to \$18.1 billion in fiscal 2006, compared to a shortfall of \$22.8 billion the year before. The program reported assets of \$60 billion and liabilities of \$78.1 billion for the year ending September 30th.

The PBGC's single-employer program insures pensions of 34 million Americans participating in 28,800 plans. The agency took over 94 terminated pension plans during the year with an average funded ratio of 50 percent. In 2006, the agency paid \$4.1 billion in benefits to 1.3 million workers and retirees under

single-employer plans. The amount of benefits is expected to rise to \$4.8 billion next year. The maximum individual benefit reached \$47,659 per year in 2006, with a smaller payout for participants who retired at a younger age.

In contrast to the improved financing for single-employer plans, however, the agency's separate program for multiemployer pension plans reported a larger deficit for 2006. This program posted a net loss of \$404 million, compared to a net loss of \$99 million in 2005. The larger shortfall is attributed to an expected \$257 million increase in loss from providing financial assistance to multiemployer plans. This program insures the pensions of nearly 10 million people in approximately 1,540 plans.

The PBGC is a federal corporation that guarantees basic pension benefits for 44 million American workers and retirees who participate in more than 30,000 private sector defined benefit pension plans. The agency is financed largely by insurance premiums paid by companies that sponsor pension plans, and by PBGC's investment returns. ■

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