

## **The Workplace Impact of Employee Divorce and How Brokers Might Look at Legal Plans in a Risk Management Light.**

While most people know that as many as 50% of marriages end in divorce, many companies have not yet drilled down on the financial costs in the workplace of their employees who are going through a divorce. Although the national divorce rate has dropped slightly from an all-time high in the 1980s, it's still more than twice the 1960 rate. "For the average couple marrying in recent years, the lifetime probability of divorce or separation remains nearly 50 percent," says Barbara Dafoe Whitehead, co-director of the National Marriage Project at Rutgers University. In many instances, employers can offer a variety of services that can help employees through personal issues, like divorce.

Why do this? The impact of a divorce in the workplace can end up costing an employer in a number of different ways – some of which are not readily apparent and many of which have not yet been fully understood. And, if carefully analyzed, the cost of having resources in place to help employees may be a minimal expense for an employer when compared to these high workplace costs of divorce. In this area, insurance producers may have an opportunity to help employers understand programs that are available and the significant impact on the bottom line that some of these programs for employees can have.

### **Personal Impact of Divorce.**

Every employer has seen employees who have gone through a divorce and most have seen the toll it has taken on the parties involved, including any children. The personal impact can be tremendous and debilitating, with huge attorney bills, prescription drugs to handle the emotional impact, repeated and lengthy psychological counseling sessions and treatment for the spouses and for the children, and the complete destruction of the family assets through a sale or division in divorce court. All of the familiar anchors are pulled up and employees going through divorces often feel like they are floating out of control while trying not to lose their jobs.

The toll extends to the children involved in the divorce with an often immeasurable impact on the children's psyche, including much pressure to divide time and loyalty between the warring parents, a disruption in their "everyday" life schedule with constant movement between new and divided parent homes, and the anger level that is often either on display or kept under wraps at one or both parents for putting them in the position of a broken family. Counseling is often a significant cost factor in this part of the equation. Parents who see their children upset and hurting feel even more stress and discomfort in this divorce situation.

### **Is there any Impact on the Employer?**

Take a moment to think about how this employee's personal stress and anxiety can affect their work. All of a sudden, in addition to everything they were doing at home and at work, an employee is now performing all of the functions required in a marriage, instead of the usual division of labor that often takes place in a more stable household. Often one spouse has more of the burdens while going through the divorce and is forced to focus on doing things they never had to do before in the marriage. Things like dealing with money

issues with a reduced income, or not being able to afford the daycare services, or not having a partner to share carpool duties, or having to leave work to pick up kids at odd and inconvenient times.

Being faced with the additional new financial impact of the divorce can add massive pressure. New and unanticipated expenses such as attorney bills and retainers, court costs, the idea of seeing everything a family built, dismantled and either divided up or sold at reduced prices to accommodate the financial needs of each party, and losing pay because of missed work due to endless court appearances and child care emergencies. Employees can spend as much as \$3,000 in some months on attorney fees. Facing this financial pressure, in addition to the human cost, can often be enough to make an employee feel like their job is secondary compared to everything they are going through personally.

### **Employers are at Risk in these Situations**

For employers, this idea of presenteeism – where employees are at work physically, but mentally they are not concentrating on their work – is a concern that needs more attention. Supervisors often see the employee who is going through the divorce at work and expect that they should be able to do their job. And, on missed work days, usually without much notice the employer suffers when work is not done. In the past, employers often ignored the costs of employees going through divorce.

Today, the high cost of employee absenteeism is also well-documented. The cost of presenteeism is not yet as well documented, but can impact employers in a much more significant manner. Recent studies are beginning to show that approximately 60 percent of workers' compensation awards and 40 percent of job turnover rates are due to some form of stress. And, many of those employees are undergoing significant stress in divorce situations.

Examples are widespread at large and small companies. One example is the case of one company's RFP Manager who was served with divorce papers two days before the company was to submit a binding bid on a three-year contract for the Company's products through a county bidding process. Wading through all the thoughts of a broken family and children's custody issues, the Manager submitted the binding bid with an error in the bid. All bids were sealed and binding and when the Company's bid was opened it was the lowest bid by some 23%. The Company was forced to abide by the bid losing hundreds of thousands of dollars each year for the three years.

### **Brokers have an Opportunity to Help their Client Companies Here**

Brokers routinely recognize that when their client companies face a particular risk that the broker understands, the broker can often propose a solution that meets and covers that risk for an employer. All types of client companies purchase insurance programs to limit the potential cost or liability from certain situations that may [or may not] ever happen to the business.

There are brokers today who have begun to realize that there is a significant risk for employers that is not being addressed by the insurance field, but could be – that of employee personal issues that impact the job in a significant way – like employee

divorce. If 33 – 50% of all marriages end up in divorce then shouldn't companies be consciously planning for the effects of an event that is very likely to happen in all companies.

Brokers have known about employee legal plans for several years, but some are now making the connection to employer risk. But, while many of today's brokers know about legal plans for employees and may even have sold a few, most brokers are not analyzing employee legal problems as a risk that businesses will face and need insurance protection to avoid losses. In most cases, neither employers nor brokers have sufficiently studied either the likelihood, or the productivity costs, of employee divorce. As a result, only a few brokers embrace this risk and have made the determination that (1) these employee problems like divorce are a common everyday risk that at least 33-50% of any married employee workplace faces; (2) this actually will happen in most companies at some point – it is just a matter of when and to whom; and (3) the costs of employee divorce will be staggering particularly if the divorce happens to the employees with significant responsibilities including management duties.

And a fourth factor is also not often considered in a widespread manner – the relatively inexpensive cost of the programs that can provide help for employees through parts of the divorce process. For example, most large companies have an Employee Assistance Program [EAP] which provides several forms of counseling and can provide basic legal consultation for employees in divorce situations. The problem is often that employees are reluctant to use their services because of the confidentiality or stigma reasons. Employers who provide these services can do more to publicize the availability of these programs often with a real savings to the employee. But even a well-publicized EAP program can help with only the counseling portion of the employee risk. There is nothing in an EAP plan that will help employees cover the high cost of attorneys' fees – the financial part that can lead to despair and ruin for many employees.

### **The Real Risk-Eliminating Program is a Fully Insured Legal Plan**

In the same manner that liability insurance insulates companies from the risk of product liability lawsuits and damages, an employee legal plan [offered either as a voluntary benefit or as an employer-paid benefit] can insulate an employer from the liability of employee mistakes, accidents, and the cost of work productivity in some instances. Yet, as obvious as this seems, and as affordable as legal insurance is, most brokers are not thinking of a legal plan as a risk-based program needed by employers.

Many brokers think of legal plans as offering wills, legal advice, help with a real estate closing or filing for bankruptcy. What many brokers and employers do not realize is that there are certain legal plans that actually pay some or all of the legal fees associated with an employee divorce. Many legal plans offer either in-Network Attorney benefits that cover some or all of the costs of the divorce or offer out-of-Network coverage that cover some or all of the divorce legal fees. And some legal plans do not require the employee to outlay the legal fees, but once coverage is verified, pay the attorneys directly.

This insurance coverage for all of the financial part of a divorce eliminates one of the most costly aspects of the divorce for the employee – the legal expense. By eliminating one of the most important sources of the anxiety and stress factors in a divorce – the

payment of huge legal bills – the employee is apt to have less financial pressure and consequently less stress and anxiety over the financial aspects of divorce. Legal plans cannot eliminate divorce, but the right legal plan can eliminate the staggering legal fee financial burden of the divorce equation.

### **Are Brokers Using this Risk-Based Consultative Approach?**

While this may be the first time you are thinking about legal plans as a risk assessment and risk prevention tool, this strategy is working for many other brokers and legal plans are being sold in record numbers.

What is important to realize is that as obvious as it may sound, many employers do not analyze the benefits of a legal plan [even one that costs them nothing to provide via payroll deduction] in terms of being a factor that can save them thousands of dollars in productivity and reduced absenteeism and presenteeism costs. And most brokers are not yet adding the legal plan program to the consultative evaluation strategy used by brokers today to sell more risk-preventing insurance products.

Divorce costs to the employee and the employer can be staggering. And what other potential risk is likely to affect as much as 50% of an employer workforce – with certainty? Accidents, lawsuits, liability, mistakes all pose major risk-based threats to employers. Yet, none has a chance of affecting 50% of the Company's workforce.

And what insurance plan can cost the employer nothing to implement or maintain [the employees pays the monthly premium], and yet enable the employer to save thousands of dollars in stress and health-related treatment costs?

Legal Plans can be very different in their coverage and limits, but once these are carefully analyzed by a broker, they can be effective in the consultative selling approach. If your firm is interested in new ways to help employers avoid risk, it may be worth looking at legal plans in a new light.

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