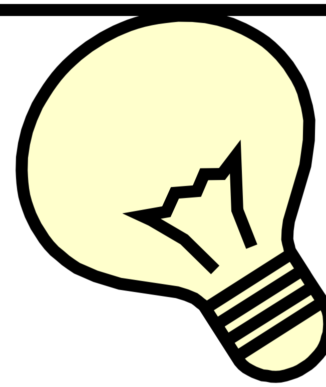
The Illuminator

Shedding Light on the HR World

12-2010 Article Directory



This publication is issued to ensure the Fort Benning commanders, managers, supervisors, and employees are kept informed of employment and staffing issues. Monthly issuances will contain updated information on specific employment topics (i.e., compensation, recruiting procedures, travel entitlements, classification issues, the Maneuver Center of Excellence (MCOE) civilian transition, etc.).

This newsletter is an apercu of articles written by CPAC staff [members] as well as information excerpted from various sources which include, but is not limited to, the Government Executive Newsletter, FedWEEK, the Federal Manager's Daily Report, FEDSmith, and the ABC-C Newsletter.

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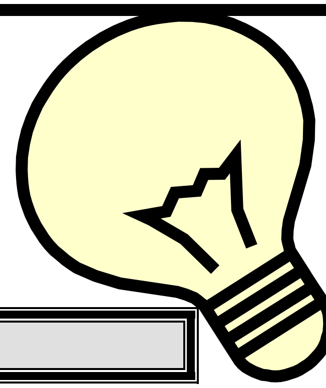

Retirement, Life/Health Insurance, TSP, Social Security and Such

<u>Disability Decisions</u>. You might have noticed that during the annual Federal Employees Health Benefits open season, which is under way right now, there are no disability insurance plans to choose from. Federal employees have group health benefits, dental and vision coverage, flexible spending accounts, and access to group life insurance and long-term care insurance. But they do not have formal disability insurance.

According to the Social Security Administration, studies indicate that a 20-year-old worker has a 30 percent chance of becoming disabled by retirement age. In the 2000 census, 20 percent of people older than 5 reported a disability. Most disabilities are not caused by major accidents but by conditions or illnesses, such as cancer or back injuries, according to the Council for Disability Awareness.

If you're like most people, you depend on your paychecks to meet your monthly living expenses. Disability insurance can help cover these financial responsibilities should you have an illness or injury that renders you unable to work.

In the absence of such insurance, here are the benefits federal employees have in the event of a disabling condition:

* For the short term, accumulated sick leave.
* For the long term, disability retirement under the Civil Service Retirement System or Federal Employees Retirement System and/or Social Security disability benefits.

These two options might not be sufficient for all employees. If you're relatively new to federal service, or have not been able to accumulate a large amount of sick leave, then an illness or accident that keeps you out of work for several weeks could force you into a leave without pay situation. Disability retirement involves separating from government. If you recover, then you would need to be formally rehired to return to work. In addition, a federal employee must have a minimum of 18 months of service (five years if covered under CSRS) before he or she can apply for disability retirement.

Sick Leave

A full-time employee accrues 104 hours of sick leave annually. So it takes 20 years of service to earn a year of sick leave. Unused sick leave accumulated by employees is used in the calculation of their CSRS or FERS annuities. At the discretion of the agency, a maximum of 30 days of sick leave may be advanced to an employee with a medical emergency for purposes related to the adoption of a child, for family care or bereavement purposes, or to care for a family member with a serious health condition.

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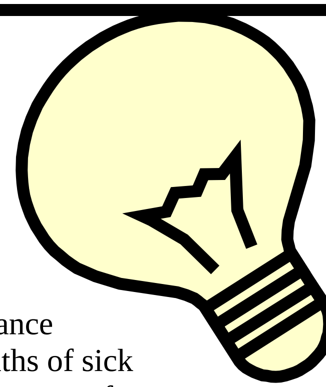

Federal employees should consider their sick leave a form of disability insurance protection. Wouldn't it be comforting to know that you have three to six months of sick leave in the bank in the event of a major accident or illness that could keep you out of work for an extended period of time?

The Voluntary Leave Bank Program allows federal employees to donate annual leave to other employees who need leave because of a medical emergency. Under the program, employees can make a specified contribution of annual leave to their agency's leave bank in order to become leave bank members.

Disability Retirement

According to the Office of Personnel Management, "You should consider applying for disability retirement only after you have provided your employing agency with complete documentation of your medical condition and your agency has exhausted all reasonable attempts to retain you in a productive capacity, through accommodation or reassignment."

Under CSRS http://www.opm.gov/retire/pre/csrs/disability.asp , employees who have 22 years of service or more will get their earned annuity without a reduction for age if approved for disability retirement.

Under FERS http://www.opm.gov/retire/pre/fers/disability.asp , the following requirements must be met to qualify for disability retirement:

* You must have completed at least 18 months of creditable federal civilian service.
* You must have become disabled for useful and efficient service in your current position.
* The disability must be expected to last at least one year.
* Your agency must certify that it is unable to accommodate your disabling medical condition in your present position and that it has considered you for any vacant position in the same agency at the same grade or pay level, within the same commuting area, for which you are qualified.
* The application must be received by either OPM or your former employing agency within one year of the date of your separation.
* You must apply for Social Security disability benefits.

FERS disability benefits are computed in different ways depending on the annuitant's age and amount of service at retirement. More information is available here http://www.opm.gov/retire/pre/fers/disability.asp#Computation . FERS disability retirement benefits are recomputed after the first 12 months and again at age 62, if the annuitant is younger than 62 at the time of disability retirement.

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Insurance Bill

In late September, Del. Eleanor Holmes Norton, D-D.C., introduced a bill (H.R. 6368 http://www.norton.house.gov/index.php?option=com_content&task=view&id=1867&Itemid=88) that would offer federal employees disability insurance at no cost to the government. In the absence of such insurance, "workers who become disabled and cannot work are at risk for financial ruin, even if they are only out of work for a few months," she said. Her bill, she added, "provides an important safety net for federal employees who desire this protection."

Norton said many federal employees purchase disability insurance as individuals, but they pay higher premiums than they would with the combined purchasing power of the federal government behind them. Under her legislation, employees would not be denied coverage because of pre-existing conditions. But employees would have to pay 100 percent of premiums.

Medicare Questions. This article is written by Tammy Flanagan. Any references to “I” pertain to her as an author.

In a recent article, I noticed that many of the comments that followed sought further clarification about how Medicare works in conjunction with the Federal Employees Health Benefits Program. This week, I'll address some of those questions.

What was not specifically mentioned in this article is the effect on your current FEHBP premiums if you enroll in Medicare and pay Medicare premiums. Do your premiums paid to your FEHBP plan decrease because they are now the secondary payer?

Premiums for FEHBP plans are determined by computing the cost of covering all participants in the plan. Consider the following question: Why do large families pay the same premium for their health insurance as families with only two people? It's because the premiums are determined based on all enrollees in that plan.

One of the factors that can increase or decrease the cost of a particular health plan is the kind of enrollees the plan attracts. When more retirees in an FEHBP plan enroll in Medicare, the costs of the entire enrollment of that plan are reduced, since Medicare takes over as primary payer. There are a number of retirees older than 65 who are not enrolled in Medicare (either because they chose not to enroll, or because they retired prior to 1983 and are not eligible for premium-free Part A). If a plan has a large number of older retirees who are not enrolled in Medicare, this helps explain the reason why these plans will have higher premiums even though the benefits aren't that much different from other similar plans.

More and more doctors and medical groups (Mayo Clinic in Arizona, for example) are opting out of participating in Medicare altogether, or will not take any new Medicare patients because of the low payment reimbursements they receive from the program. As this trend seems to be spreading, wouldn't it be wise to just stay in the FEHBP program without Medicare Part B? At least one could get care from all physicians, even if the reimbursement would be limited to what Medicare would have paid.

I still think Medicare Parts A and B combined with an FEHBP plan can be an excellent choice for retirees over 65. If you opt out of Medicare then you might subject yourself to potentially higher out-of-pocket expenses for health care should you develop problems that require expensive medical treatment -- especially when those providers are not part of your FEHBP network. While it's true that some doctors don't see Medicare patients, there are also many doctors who are not included in your FEHBP plan network. This can be true especially when you need emergency medical care and don't have time to search for a preferred provider.

It is possible to find providers who accept Medicare (even if they don't accept Medicare Assignment http://www.medicare.gov/find-a-doctor/staticpages/learn/medicare-assignment.aspx), but you might have to broaden your search. The Medicare website http://www.medicare.gov provides a list of enrolled doctors. Other sources are state medical societies and local hospitals, most of which have online directories of doctors. Of course, that's no guarantee they will see new patients.

Can you please explain for Blue Cross customers what this statement means: "So if you choose not to enroll in Medicare, your FEHBP insurance will continue to cover you. (But by law, your insurance plan must limit its payments for inpatient hospital care and physician care to what you would be entitled to if you had Medicare.)" I am specifically interested regarding Part B.

There is a page in each 2011 FEHBP brochure under the section titled "Your Costs for Covered Services" that outlines your coverage if you are 65 and are not enrolled in Medicare. For Blue Cross, if you are over 65 and do not enroll in Medicare Part B, then your out-of-pocket expense will depend on the following:

* Are you seeing a preferred provider?
* Does your provider participate with Medicare and/or accept Medicare Assignment?

Your lowest out-of-pocket expense will occur when you use preferred providers who participate in Medicare, even if you are not enrolled in Medicare. In this case, you will be responsible for meeting your annual deductible plus any co-payments and co-insurance. If the provider participates in Medicare but is not a preferred provider, then you will be responsible for your normal out-of-pocket expenses plus any additional amount up to the Medicare limiting charge. If the provider is neither participating in Medicare nor is a preferred provider, then you will be responsible for all deductibles, co-insurance and co-payments. Remember, under Basic Blue Cross using nonpreferred providers will cause you to be responsible for all charges.

What bugs me most about buying Medicare Part B is that unless you have a Social Security check from which to pay the premium, the premium can go up far above the annual cost of living adjustment. This year, a Civil Service Retirement System retiree who does not have a Social Security annuity because he or she worked for the federal government for an entire career will have an increase in their premium. But Social Security recipients will not have an increase because the COLA will be zero. Over the years and decades, that can really hurt.

There might be some relief on that front. Sen. John Kerry, D-Mass., has pledged to introduce the Medicare Premium Fairness Act http://www.narfe.org/departments/home/articles.cfm?ID=2263 when the Senate convenes for the lame-duck session next week. The bill would protect all Medicare beneficiaries -- including federal civil service annuitants who are not eligible to receive Social Security -- from an increase in their Part B premium in 2011, when they will not receive any COLA.

Your column stated: "Medicare Parts A and B alone are not adequate health insurance because they do not offer catastrophic protection and have gaps in coverage that can result in large out-of-pocket expenses. If you have to make the choice, FEHBP alone is a better bargain than Medicare alone." Not so, according to an-ex Medicare lawyer. A and B do offer catastrophic protection. I was a recipient of such protection when I suffered an accident five years ago in Antioch, Calif. I, of course, had GEHA protection also.

In 2011, Medicare Part A offers up to 60 days of inpatient care with a deductible of $1,132 (with no co-insurance) for each benefit period. If the benefit period is beyond 60 days (up to 90 days), then you would pay $283 per day out of pocket. You have up to 60 days of "lifetime reserve days" after you have exhausted the 90-day benefit period, but during those 60 days, you would pay $566 per day. After you exhaust those lifetime reserve days, you pay all costs. To me, this is not catastrophic protection.

If you are covered by any FEHBP plan along with Medicare, you will not be responsible for these out-of-pocket Medicare expenses. Your federal plan will cover them and offer you catastrophic coverage so that you are responsible only up to a specific dollar limit, usually much less than $10,000. You had that protection through GEHA.

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I will turn 65 in February 2012. My wife will not turn 65 until Feb 2016. I currently have Blue Cross Blue Shield standard option and also TRICARE standard through the military. When I become eligible for TRICARE for Life at 65, should I enroll in Medicare Parts A and B and suspend my FEHBP, or should I continue my FEHBP until my wife turns 65?

At 65, you will be adequately covered through Medicare A and B along with TRICARE for Life. But you should consider maintaining your FEHBP coverage for your wife, who will turn 65 four years after you. If you were to suspend your FEHBP when you turn 65, you would be leaving your wife with only TRICARE standard coverage.

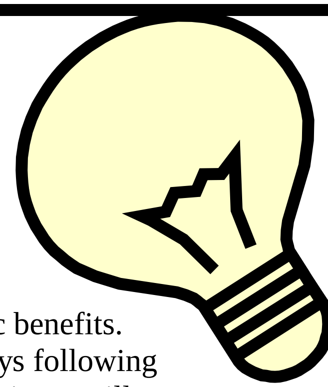
Is there a list of the national FEHBP plans that waive co-payments if a retiree has Medicare Parts A and B? Or do I have to read every plan?

The fee-for-service FEHBP plans will provide waivers of deductibles and co-insurance when Medicare becomes your primary coverage. Each plan varies in how this works, and also in other factors, such as prescription drug coverage, so I do suggest reading the plan brochures. There are only six fee-for-service plans that are open to all FEHBP participants and a handful of others that are open to specific groups. HMOs, consumer-driven plans and high-deductible health plans also coordinate their coverage with Medicare, so you should consider them too.

Choosing the best health plan for you and your family could provide more than $200 a month in savings, so I consider this a worthwhile exercise for everyone. The Office of Personnel Management has a variety of online tools http://www.opm.gov/insure/health/planinfo/index.asp designed to make this chore a little easier.

Survivor Support. Federal employees might not often stop to consider how their benefits will be disbursed if they die during government service, but there are a range of options available to families of workers who pass away unexpectedly, either on or off the job.

The 1993 Federal Employees' Compensation Act affords continuing benefits to family members of federal workers who die from job-related injuries. Surviving spouses without children will receive monthly payments equal to half of the deceased employee's take-home pay. Families will receive 45 percent of the worker's salary, plus an additional 15 percent for each child, but payouts cannot exceed 75 percent of pay. If the deceased employee had no spouse or children, then surviving parents, siblings, grandparents and grandchildren could be eligible to receive compensation. Benefits will be paid until a spouse remarries, or children become independent adults. The law also allows a one-time payment of up to $800 for funeral and burial costs.



Families of service members killed in the line of duty are eligible for specific benefits. When military personnel die on active duty, during training or within 120 days following the end of their career, if their death is due to a service-related disability, survivors will receive a lump-sum payment of $100,000. The Veterans Affairs Department also pays out a monthly compensation of $1,154 to the surviving spouse and an additional $250 for each dependent child. Families are eligible for up to $1,000 for military funeral costs, or $8,800 if they make private arrangements.

Federal workers should take steps to ensure their families receive the full health, life and retirement benefits they are entitled to in the case of an unexpected death, including those that are not work-related.

John Grobe, president of consulting firm Federal Career Experts, advises all employees to ensure their beneficiary forms are up to date. Life events such as marriage, birth of a child and divorce could change employees' preferred beneficiaries, he noted. Payouts will be based on a standard order of precedence if workers do not designate a beneficiary.

"We often think well, I'll change my beneficiary form, I'll get around to it," said Grobe. "Where it is an issue is a situation of someone dying prematurely while they are still working. They may not have gotten around to it."

Federal Employee Group Life Insurance participants should complete form SF-2823 http://www.opm.gov/forms/pdf_fill/sf2823.pdf . These benefits are paid either in a lump sum, or through a money market account from which survivors can write checks.

Civil Service Retirement System employees should complete form SF-2808 http://www.opm.gov/forms/pdf_fill/SF2808.pdf . The survivor benefit for CSRS is 55 percent of an employee's annuity.

Federal Employees Retirement System participants should complete form SF-3102 http://www.opm.gov/forms/pdf_fill/SF3102.pdf . According to Grobe, beneficiaries under FERS will receive a lump-sum payment, or 36 monthly checks totaling 50 percent of the employee's salary or high-three pay plus nearly $30,000. In addition, if the FERS enrollee had 10 or more years of government service, the survivor will receive 50 percent of the employee's full annuity. Children also are eligible for survivor benefits under FERS, Grobe noted.

To designate unpaid compensation, including annual leave, employees should complete form SF-1152 http://www.opm.gov/forms/pdf_fill/SF1152.pdf .

Thrift Savings Plan participants should complete form TSP-3 https://www.tsp.gov/PDF/formspubs/tsp-3.pdf , which is kept on file with the TSP.

Though federal employees do not have to designate a beneficiary for coverage received through the Federal Employees Health Benefits Program, survivors will receive continued benefits if enrolled in a self-and-family option.

Federal workers can check with their human resources office to ensure up-to-date forms are filed in their personnel folders, Grobe said.

"One other thing federal employee should do in preparing their spouse or others is to, as part of the estate plan, have a letter of instructions that informs their spouse or executor what benefits they might be entitled to, where they might be and how to go about applying for them," he said.

Long Term Care Insurance Worries Baby Boomers. Kathy Kozakiewicz, 59, of Phoenix, decided to buy long-term care insurance after her father-in-law was diagnosed with Alzheimer's disease. He had to wait 18 months until space opened at a local Veterans Affairs nursing home, and during that period, the family was responsible for his care. Kozakiewicz and her husband, both retired federal workers, were determined to spare their children from that experience.

But now, the Kozakiewiczes fear that their insurance could become unaffordable. John Hancock, which has a contract with the U.S. Office of Personnel Management (OPM) to provide long-term care insurance for federal employees, recently asked state regulators for an average rate increase of 40% on most of its non-federal long-term care insurance policies. "This makes me worry when the five-year deal that OPM struck with them has to be renegotiated, that our rates will skyrocket as well," Kozakiewicz says.

Millions of aging Baby Boomers face a similar concern. Long-term care insurance is supposed to protect seniors and their families from the soaring costs of nursing home and home-based health care. Increased use of long-term care insurance would also reduce the burden on Medicaid, which accounts for 43% of the cost of nursing home care, according to the Kaiser Family Foundation.

But the same factors that have highlighted the need for long-term care insurance — a rapidly aging population, lengthening longevity and unpredictable health care costs — have made it increasingly unprofitable for insurers. Some, such as John Hancock, Genworth and Bankers Life and Casualty, have asked state regulators for rate increases of 30% or more. Others have left the business. Earlier this month, MetLife announced that it will stop selling long-term care insurance. The company said it will continue to provide coverage to existing policyholders. "While this is a difficult decision, the financial challenges facing the LTCI industry in the current environment are well known," Jodi Anatole, vice president of long-term care products for MetLife, said in a statement.

In addition to health care hyper-inflation, insurance companies are struggling with record low interest rates, which have dragged down investment returns. "Sustained low interest rates are to the long-term care insurance industry what $4-a-gallon gas was to the SUV market," says Jesse Slome, executive director of the American Association for Long-Term Care Insurance, a professional organization for agents who sell long-term care policies. "It's a game changer for some — not all — and consumers need to understand that."

How to reduce costs

Wealthy Boomers have sufficient assets to pay for long-term care, and low-income Boomers will probably be eligible for federal assistance. But for the vast swath of graying middle-income Boomers, long-term care insurance fills an important vacuum, industry representatives say. Medicare doesn't cover long-term care, and Medicaid kicks in only after you've exhausted most of your assets. In addition, relying on Medicaid will sharply reduce your options for long-term care, says Elinor Ginzler, an expert on aging issues for the AARP.

For example, AARP research shows that the vast majority of Boomers like where they're living and don't want to move to a nursing home, Ginzler says. Medicaid doesn't typically pay for home health care. Most long-term care policies include coverage for at-home care, and if you need nursing home care, you won't be limited to facilities that accept Medicaid patients.

Frank Darras, an attorney who has represented policyholders in lawsuits against long-term care insurers, says he's seen a lot of deceptive practices by insurance companies. But he's still a fan of long-term care insurance, especially for Boomers who can't count on someone to care for them when they can't take care of themselves.

His list of "must-haves" for long-term care insurance includes singles, seniors whose children live far away and women. Women, Darras says, tend to be the primary caregivers for their parents and spouses and usually outlive their husbands. "By the time you're 80, you're worn out, and there's nobody left to care for you," he says.

Deborah Patrick, 55, a registered nurse in Marietta, Ohio, says her experience as co-founder of an assisted living facility persuaded her to buy long-term care insurance for herself and her husband. The average stay in the facility was 10 years, and most residents weren't eligible for government assistance, she says. "The people who had long-term care policies — you could see the benefit," she says.

After the bear market slashed the value of their investment portfolio, Patrick says, she valued her insurance policy even more. Long-term care insurance, she says, "is probably the most valuable of anyone's holdings."

Still, buying long-term care insurance entails some risks. The majority of consumers buy their policies between ages 55 and 64, according to American Association for Long-Term Care Insurance. Even if you wait until you're in your 60s — which will mean higher premiums — you could end up paying monthly premiums for 20 years or more before you need long-term care. If your income declines, or premium hikes make your policy unaffordable, you may have to cancel your policy, wiping out your investment. And if you live independently until you're 95, then die in your sleep, you won't get anything back for your investment.

Currently, there's a wide variation in premiums for long-term care. Premiums for policyholders ages 55-64 range from $1,257 to $3,075 a year, according to the AALTC. The average premium for that age group is $2,200 a year. Average premiums for individuals age 65 and older are $3,250. By the time seniors reach their mid-70s, most policies are unaffordable or unavailable.

Ways to keep premiums affordable:

•**Opt for time-limited benefits.** The biggest rate increases have been for older policies that provided no cap on the number of years they'd cover, Slome says. Consumers can lower premiums by up to 39% a year by buying a policy that limits coverage to three years, he says.

For most people who are in good health, three years of coverage is sufficient, says Howard Mills, director and chief adviser of Deloitte's Insurance Industry Group. "Most of the cost of the health care system is incurred in the final year of life," he says.

•Include a waiting period. Like a higher deductible on your car insurance, a 90-day waiting period will lower your premiums, Slome says. Most people can rely on family and friends to help out until their coverage kicks in, he says. Remember, too, that if you require long-term care because of a stroke, broken hip or similar affliction, Medicare will typically cover you for the first 20 days. While some insurers sell coverage that takes effect immediately, that's "a luxury few can afford and protection most won't need," Slome says.

•**Research the history of rate increases.** Darras recommends asking insurers: When was your last rate increase, and how many increases have you had in the last 10 years? You can also get that information from your state's department of insurance. Your state insurance department can also tell you if there have been a lot of complaints about the insurer, Darras says. To find your state's insurance department, go to www.naic.org.

•**Stick with established companies.** It may be a long time before you need long-term care, so you want an insurer that will be around at least as long as you will. Darras also recommends buying from companies that sell other insurance products, such as annuities and life insurance. Those companies are better able to withstand short-term losses in their long-term care policies, he says.

They may also be more expensive. John Reynolds, 60, of Marietta, Ga., says he pays a higher premium for his policy from Northwestern Mutual than he could have gotten elsewhere. But Northwestern Mutual hasn't increased its rates since it started offering policies in 1998. Reynolds believes that's because the company has accurately projected the cost of claims.

•**Get help.** Long-term care insurance is extraordinarily complicated. There are no standard options you can compare on the Internet. Policies may cover nursing home care, assisted living, home care or a combination of services. Some will pay a family member to care for you; others require you to hire a certified health professional. Some policies will pay you a lump sum to use however you want, once you're eligible for coverage.

Policies also have different "triggers" that must transpire before your coverage kicks in. Generally, insurers require that you need assistance with at least two "activities of daily living (ADLs)," such as bathing, eating or walking. Unscrupulous insurers sometimes exploit ambiguity over ADLs to deny claims, Darras says.

Consult with an insurance agent or broker who specializes in long-term care insurance and can help you identify a policy that will fit your income and needs. Even then, you may want to have an attorney review your policy before you sign up, Ginzler says. "This is one of those times when you want to be a very wise consumer and spend the time to read all the fine print."

Is 2010 the Last Chance for ROTH Conversions? Maybe…….Maybe Not. By now you've heard that 2010 is a phenomenal opportunity if you have a high income and want to convert money to a Roth IRA.

In addition to Traditional IRAs, Federal Employees may also be able to convert money from their Thrift Savings Plan or CSRS Voluntary Contributions Plan to a Roth IRA. You can learn more about these conversions in my previous article, Unique Roth IRA Conversions for Federal Employees.

But what if you can't convert in 2010? Is 2010 really your last chance?

Technically, the income limits on Roth conversions were repealed as of 1/1/2010. As it stands, there is no set date for the income limits to return.

But the tricky thing about tax laws is that they are in effect...until they're not.

Congress has the ability to bring back those limits whenever they want. Most experts expect Congress to bring back limits on Roth Conversions, possibly as early as 2011. Right now, we simply don't know what Congress will do.

Keep in mind, that this will not affect your ability to contribute or withdraw your money from the CSRS Voluntary Contributions program, or do an in-service age-based withdrawal from your TSP. But if you want to do a Roth Conversion and Congress brings back income limits on conversions, it might affect *when* you convert. You might choose to delay a withdrawal, or to move the money to another account and plan to convert it to a Roth later.

This is where good tax planning comes into play.

First, you need to know that the income limits on Roth IRAs typically revolve around a special calculated number called your *Modified Adjusted Gross Income* (MAGI).

MAGI can be tricky to explain. While you won't see a line on your 1040 that shows your Modified Adjusted Gross Income, everything you need to calculate your MAGI will be on your taxes.

MAGI is a unique IRS specified amount. And most people don't know they're MAGI off the top of their head. You'll be adding back certain items to your Adjusted Gross Income from your tax forms. To see exactly how MAGI is calculated, check out IRS Pub 590, Individual Retirement Arrangements (IRAs), and look for Worksheet 2.1 *Modified Adjusted Gross Income for Roth IRA Purposes*.

In the past, if your MAGI was above $100,000 (for Married Filing Joint), you could not convert money from a Traditional IRA, CSRS VCP, TSP, etc. to a Roth IRA.

If Congress does bring back MAGI limits on Roth Conversions (which they will likely do, it's just a matter of when), and your MAGI is above the limit they set…you would not be able to do a Roth Conversion for that year.

However, with good planning, you may be able to lower your MAGI enough in the future in order to qualify.

Here are just a few ideas you could use to possibly lower your MAGI...

• (**The most basic**) Contribute more to tax-deferred accounts (like your Thrift Savings Plan) in order to lower your MAGI enough. Even if you're trying to get more money into after-tax accounts like a Roth you may decide to contribute more to your tax-deferred accounts in one year in order to make the MAGI limit.

• **Take Advantage of Tax Losses** - if you have investments that have lost money in an after-tax account, then you might be able to sell those investments and 'harvest' the loss. If you still wanted to have that investment, you wait a certain amount of time (typically 31 days), then buy the investment back. There are limits to how much you can deduct for this situation - but it may be able to help you lower your MAGI.

• **If you own rental property**, there might be some changes you can make to take legal tax losses on expenses to lower your income. Passive Activity Losses, also called "PALs", also have MAGI limits, so these may need to be used in conjunction with other ideas.

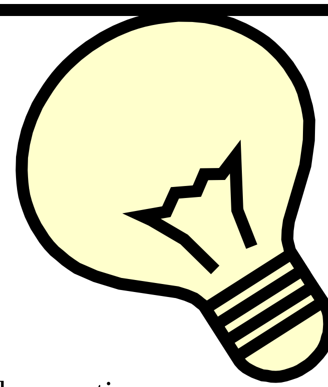
• **LWOP** - if you have adequate savings, you might be able to take Leave Without Pay for enough time to lower your MAGI. And if you take LWOP for less than 6 months in a calendar year, it won't reduce your creditable service for retirement.

• **Buying a Tax Deduction** - This one is very tricky, but you should know that some high income earners can buy an above the line tax deduction (that would reduce your MAGI). But you should consult your tax or financial professional to make sure this is right for you.

Not all of these are right for everyone. It depends on your goals and your financial situation.

Tax planning is complex, and I recommend that you find a trusted tax or financial professional to assist you. Just because a tax planning strategy exists, doesn't mean that it is right for you. And if you mess up at tax planning, the consequences are serious and expensive. It's worth having assistance from someone who does this for a living.

However, many professionals are really more focused on tax-preparation: what happened, what form does it go on, and 'poof'—here's how much you owe...now cough it up.



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The key to good tax planning is a future-orientation. You want to be asking the question, what can I do to lower my taxes in the future?

While I think tax planning is a phenomenal tool, it is not for everyone. If someone is in debt or living paycheck to paycheck - they should focus on getting financially fit first.

However, if you're in a good situation financially, tax planning is the next level of financial planning.

Good tax planning helps you use the tax laws to your best advantage. It can also help keep more of your money in your pocket. You are legally required to pay taxes, but you are legally entitled to organize your finances in a way to pay the least amount of taxes required.

So even if MAGI limits on Roth conversions don't come back, you can still use tax planning to help lower your taxes.

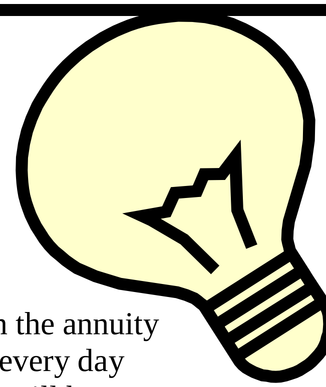
But if Congress does bring back income limits on Roth Conversions in the future, you should know that with good tax planning, you have a number of options that could still allow you to qualify.

Advantages of Retiring in 2010 and 2011. Retiring at the end of leave years 2010 or 2011 offers maximum advantage to employees who want to hold out for the maximum payment for unused annual leave and get the benefit of the pay increase that starts on the first pay period on or after Jan. 1 each year.

Keep in mind, however, the end-of-year avalanche of retirements will further challenge the Office of Personnel Management's ability to process applications in a timely fashion. New applications will be on top of a backlog of 38,000 applicants, 40 percent of whom have been waiting three months or more to receive their full annuities. OPM has pledged to increase its staff to speed processing, especially for simple cases. And, instead of its long-time practice of making partial payments, it plans to make retirees' initial annuity payments as close to the maximum as possible.

The 2010 leave year ends Saturday, Jan. 1, 2011. This is good news for both Civil Service Retirement System and Federal Employees Retirement System employees. FERS employees have to retire no later than the end of a month to be on the annuity roll in the following month.

The Illuminator
12-2010



While CSRS employees can retire up to the third day of any month and be on the annuity roll in that month, they lose 1/30th of that first month's annuity payment for every day they are still on the payroll. By retiring at the close of business on Dec. 31, you'll be on the annuity roll in January.

You don't have to retire on Jan. 1, 2011, just because it's the end of the pay period. When you've completed your work week, you are free to retire, no matter what day it falls on. By completing a pay period, you'll also get credit for any annual and sick leave you earned during that period.

The 2011 leave year ends on Saturday, Dec. 31, 2011. This is good news for both CSRS and FERS employees for the same reasons.

By retiring at the end of the leave year, most of you will get a lump-sum payment for all your unused annual leave, including the so-called "use or lose" leave you would have lost if you retired after the new leave year begins. I said "most of you" because there are limits on how much annual leave a U.S. Postal Service employee can cash in.

You'll also reap the benefit of the 2011 pay increase — if there is one. That's because your unused annual leave will be projected forward as if you were still on the payroll and paid at 2011 rates. The only potential pay change that won't be factored in is any step increase you would have received. You have to be on the job and performing satisfactorily to get one of those.

There's also a tax benefit if your income in the year after you retire, including any lump-sum annual leave payment or buyout, is lower than it was while you were working. Check IRS Publication 721, Tax Guide to U.S. Civil Service Retirement Benefits, to see how much of your annuity will be nontaxable.

To assure that your retirement application is processed more smoothly and quickly, make sure it is complete and accurate. This year, you don't have much time. When your agency personnel office reviews your application, ask if everything is in order. If it isn't, work quickly to deal with whatever problems are spotted.

If you're planning to retire next year, you'll have more time to review your Official Personnel Folder to see if all your periods of service, whether civilian or active-duty military, are accounted for. If there are periods for which a deposit or redeposit to the retirement fund is needed to get credit for that time in calculating your years of service, in your annuity computation or both, find out if it makes economic sense to do that.

Check to be sure you are eligible to carry your health benefits and life insurance coverage into retirement. And ensure your designations of beneficiaries are up to date.

Then, well in advance of your retirement date, fill out Standard Form 2801 if you are covered by CSRS, or Form 3107 if you are covered by FERS. Give it to your boss or administrative officer.
With time to spare, you are more likely to be able to iron out glitches that may arise as your application makes its way through your personnel and payroll offices.

Employment-Related News

Frozen Assets. The 2011 pay raise for federal employees is in a holding pattern. Proposals to cut or freeze salaries could have a broader impact on government recruiting, retention and morale, but agencies have other tools available to reward workers.

Congress has yet to act on legislation setting next year's federal pay increase, and proposals from both Republican lawmakers and the leaders of President Obama's bipartisan fiscal commission recommend freezing government salaries. All this comes amid a debate over whether federal employees earn more or less than their private sector counterparts. Observers warn attempts to pare the payroll could set government back when it comes to maintaining a first-class workforce.

"The challenge the federal government faces is, it's not like the private sector in the sense it's got some duties to perform, which are not tied necessarily to the ability to pay for them," said Paul Rowson, managing director at the human resources association WorldatWork. "If you freeze pay in this environment, you run the risk of losing the talent that you need, and quite frequently the talent that you lose first is your best."

For example, pay is an important factor in federal retirement annuity, while bonuses and other types of compensation are not, said Rowson. For a seasoned, educated, yet aging workforce, changes in pay could prompt early exits.

"If they freeze or cut salaries, we're likely to see a rash of retirements," said Howard Risher, an independent compensation and performance management consultant, noting annuity benefits are based on an employee's high-three salary. "Once there's no prospect of that going up, there's not the same reason to hang around. That is a potentially significant loss of institutional knowledge."

A pay freeze could affect the opposite end of the federal workforce, Risher and Rowson agreed. While government jobs look appealing to recent college graduates, many potential applicants and new hires could jump ship to the private sector, where the promise of advancement is greater, they said.

Pay issues also could affect morale and managers' ability to be effective leaders. Front-line managers might not be equipped to manage through this difficult environment, which is critical to engage and retain top talent, Rowson said.

"How do managers keep people motivated and engaged when an annual increase and locality-based pay have been the primary elements of how you reward them?" he said. "What do you dangle in front of that employee when you've rested on a consistent annual increase?" Agencies and front-line managers can find other ways to reward and encourage workers, Rowson said. For example, supervisors should spend more time with their employees to discuss career development and mentoring opportunities. Boosting workplace flexibility, including telework, and allowing employees to participate in different projects or on different teams also can help offset pay issues.

Federal agencies also can promote initiatives around employees' physical, emotional and financial wellbeing during stressful times, Rowson said. Internal social networking, employee assistance programs and wellness initiatives are important for workers' health, he noted. In addition, financial management seminars, often available at little or no cost, can help workers better manage their resources, and partnerships with Costco and other retailers can result in employee discounts.

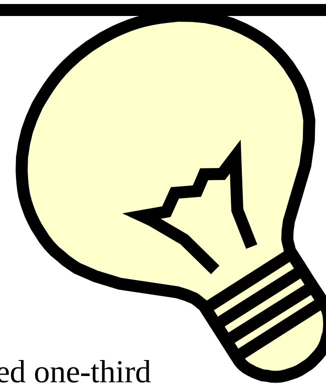
"There's nothing wrong with asking employees what would be most meaningful or helpful to them," he said. "Asking that question and listening is a sign of an organization that really looks at people as important and as an investment."

Higher-pay locality zones recommended for 6 cities, Alaska, Hawaii. Employees in six more cities and all employees in Alaska and Hawaii would be eligible for higher locality pay beginning in 2012 under a recommendation approved Friday by the Federal Salary Council.

The two states and the six cities — Albany, N.Y.; Albuquerque, N.M.; Bakersfield, Calif.; Charlotte, N.C.; Harrisburg, Pa.; and Portland, Maine — all would be designated separate, higher-paying locality zones and move up from the "rest of U.S.," or RUS, zone.

The recommendation, which must be approved by the President's Pay Agent, an interagency council, would bring the number of locality zones to 40. Bureau of Labor Statistics surveys showed that the pay gap in those areas was significantly higher than the RUS gap.

The council decided not to establish unique locality areas in New Orleans and Louisville, Ky. BLS data showed that the pay gap in those areas was smaller than the RUS gap.



Employees in Alaska, Hawaii and U.S. territories such as Puerto Rico received one-third of the locality pay for the RUS zone for the first time beginning in 2010. Congress last year passed a bill phasing in RUS locality pay for those employees who previously received cost-of-living allowances instead of locality pay. Unlike locality pay, cost-of-living allowances were not included in the computation of annuities.

While the council recommended separate locality zones for Alaska and Hawaii in 2012, it recommended continuing to grant territories the RUS locality payment.

The President's Pay Agent, an interagency council of top agency and labor leaders that advises the White House on pay issues, usually adopts the salary council's recommendations.

Chuck Grimes, the Office of Personnel Management's deputy associate director for employee services, said the pay agent would likely issue its decision by the end of the year.

Feds are Target of Debt Commission Recommendations. The calls for freezing federal pay and cutting the federal work force are getting stronger. The latest salvo is a draft proposal from the White House's bipartisan deficit reduction commission, which calls for a three-year freeze on federal pay raises and bonuses. It also calls for slashing the federal work force by 10 percent — 200,000 positions — by 2020.

The bipartisan recommendations make it increasingly likely that the federal budget is going to be balanced in part on the backs of federal employees.

"No one is going to be unscathed by the sacrifice that all of us are going to have to make," former Office of Personnel Management Director Michael Hager said. "The deficit has grown to such a proportion that it means everybody's going to have to chip in."

It's far from certain which — if any — of the commission's draft proposals will be enacted. Fourteen of the commission's 18 members must agree on the final slate by Dec. 1. Congress will then have to vote on the final proposals.

But the proposed cuts are deep — they would cut $4 trillion from the deficit by 2020 if enacted in full — and are already proving controversial. Some key lawmakers are taking aim at the plan — which means it could have a tough time making it through Congress.

"This proposal is simply unacceptable," outgoing House Speaker Nancy Pelosi, D-Calif., said in a statement criticizing the suggested cuts in Social Security and Medicare.

Hager said he thinks Congress has no choice but to act, and make some hard choices to cut the deficit.

"The election a few weeks ago is a clear indication that the American people want this to be changed," Hager said. "Chances are as good as they're going to get, and if they don't take action, two years from now there will be another incredible change in Congress."

But Hager said that even if the plan isn't approved in its entirety, some components, such as the pay freeze, could resurface in other pieces of legislation, such as appropriations bills.

Until now, most calls to freeze federal pay and cut the work force have come from Republican lawmakers and libertarian or conservative think tanks like the Cato Institute and the Heritage Foundation.

But Hager said that having the approval of a Democrat like Erskine Bowles — co-chairman of the commission and former White House chief of staff under President Clinton — could give Democratic lawmakers cover to reduce the size of the federal payroll. Former Sen. Alan Simpson, R-Wyo., is the commission's other chairman.

Limits on hiring

The draft proposal would only allow agencies to hire two new employees to replace every three who leave, cutting 200,000 employees from the federal payroll and saving about $13.2 billion by 2015. All agencies would have to make those staffing cuts, but the draft proposal would allow the president to exempt certain agencies if their cuts would harm national security, as long as those cuts were made up elsewhere.

This would likely spare agencies such as the Defense and Homeland Security departments and the intelligence community and force the reductions to fall more heavily on other agencies.

And if those exemptions are made, there probably are not enough federal employees remaining on the table to meet those cuts without a drastic reduction in the federal government's responsibilities, said John Palguta, vice president for policy at the Partnership for Public Service.

"Then we have to start talking about wiping out entire organizations, which is fine, but we need political guidance on what we need to shut down," Palguta said. "We need legislation to say, we're going to get rid of the Department of Education and their 6,000 employees. Or how about [the Food and Drug Administration, the National Institutes of Health], and the folks doing the meat and poultry inspections? Most domestic agencies are doing things the public says they want. They want their Social Security checks."

Pay freeze

Palguta said he doubts such drastic staffing cuts will be enacted. But the pay freeze has a better shot at surviving, he said.

The government currently isn't having trouble attracting qualified job candidates since the economy has decimated the private-sector job market. But if the economy rebounds and private companies are hiring again by 2014 — the last year of the proposed three-year freeze — Palguta said he worries that the government would then have a hard time competing with the private sector for qualified employees.

Since federal employees' pensions are based on an average of their three highest annual salaries, the proposed pay freeze would affect feds' retirement. But the proposals do not directly target federal retirement benefits.

But to further whittle down the deficit, Hager said Congress may need to take a harder look at just those benefits.

Hager said many private-sector firms have cut their pension plans and shifted their employees onto defined contribution plans such as 401(k)s, and he said the government may need to do the same. He said he supports raising the age federal employees can begin to draw their pensions — the Federal Employees Retirement System's minimum retirement age is now 57 for employees born in or after 1970 — and said the government should encourage feds to save their own money for retirement through the Thrift Savings Plan. Hager suggested increasing the government's TSP matching contributions as an incentive to save more.

"Everything's on the table now," Hager said. "Why should the government be more generous than the private sector?"

Hager also said the government will eventually have to reform how its employees are paid and replace the current General Schedule system, which provides the same pay raises to employees regardless of what job they do. A new pay system could help balance the budget by limiting pay raises for federal occupations that are overpaid in comparison to the private sector, but steering pay raises to federal workers who are likely underpaid.

But such a reform would be highly controversial, and Hager said he doesn't expect to see a civil service overhaul anytime soon.

Contractor cuts

The draft proposal also recommends cutting 250,000 nondefense government contractors, claiming it would save $18.4 billion by 2015.

Stan Soloway, president and CEO of the Professional Services Council, a trade organization representing more than 300 companies, said the focus should be on the work that is done, not who is doing it.

Instead of imposing arbitrary cuts, the government should work to identify and eliminate inefficient or unnecessary work wherever they find it, he said.

"In the past, arbitrary reductions in civil servants or contractors, which are among many options identified by the commission chairs, have not generally proven an effective means of achieving sustainable budget savings," Soloway said.

He also questioned the math behind the proposal, calling the report's estimate of 12.1 million federal employees and government contractors "wildly inaccurate and misleading." The report also said that the contractor work force has grown by 2.4 million since 2002.

Foreign Service pay

Susan Johnson, president of the American Foreign Service Association, is concerned by a proposal to cut locality pay for Foreign Service officers serving overseas. Congress granted those officers Washington-area locality pay on a temporary basis in 2009 and 2010, but has not ordered a permanent fix. The commission said canceling future locality pay would save about $427 million each year.

Johnson said AFSA would rather see budget cuts come from reducing programs and not from slashing personnel costs.

"We're supposed to be a Foreign Service organization, but we cut people's salaries when they go overseas?" Johnson said. "That's very odd. It doesn't seem equitable. I understand the need to reduce deficits across the board, but some of these kind of cuts realize very modest savings overall, and inflict serious harm to small civilian departments and their capacity to carry out their mission."

Johnson also objected to a proposal to cut the federal vehicle budget by 20 percent for all agencies except the Defense Department and U.S. Postal Service. Johnson said the State Department — whose employees frequently work alongside military service members in war zones and use armored vehicles — should also be exempted from those cuts.

Other cuts

Federal travel budgets at all agencies, except the U.S. Postal Service, would also be cut 5 percent, saving $4.2 billion over 10 years. Federal employees should instead use teleconferencing technology to reduce the need to travel, the report said.

And the commission tried to find savings in things as mundane as setting photocopy machines to make double-sided copies by default, cutting computer power usage and eliminating paper pay stubs. Those miscellaneous savings around the office could save more than $1 billion annually, the report said.

Michael Zolandz, a public policy expert and partner at SNR Denton, a law firm that helps clients navigate the federal government, said that the draft proposal is a starting point for negotiations that will end with some sort of budget cuts.

"The release at this point in time is a preemptive strike to set the debate for these cuts," Zolandz said.

Each of the cut proposals will probably be debated during the budget process, with some cuts being included in the president's budget request, he said.

While individual items such as cutting federal travel budgets and reducing vehicle fleets don't individually do much to reduce overall spending, they add up to significant savings, he said.

OPM Delays launch of Federal Health Claims Database. The U.S. Office of Personnel Management (OPM) has decided to push back the planned launch of a controversial health claims database by one month.

The new database, which will eventually contain detailed health information on millions of Americans, was originally set to launch this morning. But in a notice issued today in the Federal Register, the agency said it was delaying the deadline to Dec. 15 so it can accommodate more comments from the public.

The OPM also said it may revise its original systems of records notice (SORN) about the database to better explain its authority to maintain such a system and to clarify its intent to "significantly limit" how health claims data will be shared. The OPM may also provide a more detailed explanation of planned security and privacy controls for the new database, the notice said.

It offered no details on when a revised SORN will be published.

The decision to push back the launch comes after privacy groups expressed considerable alarm over the OPM's planned Health Claims Data Warehouse. Much of the concern stemmed from what the groups said is a serious lack of details about why the new database is needed, with whom information will be shared, and how data will be protected.

According to the OPM, the database is designed to help the agency more cost-effectively manage the Federal Employee Health Benefit Program (FEHBP), the National Pre-Existing Condition Insurance Program and the Multi-State Option Plan.

The agency has said it will establish direct data feeds with each of these health plans and pull in data such as names of participating members, their addresses, Social Security numbers and dates of birth, plus the names of spouses and information about dependents and their healthcare coverage, procedures and diagnoses. In its original records notice, the OPM said it would share this data as required, for use in law enforcement, judicial or administrative proceedings and with third-party researchers and analysts. The OPM has noted that the data it collects would be de-identified in many instances, before any analysis takes place.

Privacy and rights groups such as the Center for Democracy and Technology, American Civil Liberties Unions and the American Federation of Government Employees have urged the OPM to delay the database rollout until others have had a chance to properly evaluate it. In a letter to OPM Director John Berry, the CDT and 15 other groups expressed concerns over the lack of details in the original SORN and called on the agency to scrap its plans for the database.

The groups have argued that there is no need for the database of healthcare information for the purposes described in the SORN. Instead, the OPM could simply ask each healthcare program to conduct its own analysis of the programs and submit it to the OPM, they argued.

Today's OPM notice, "indicates that they just feel they need to explain themselves better, rather than change anything about their system," said Harley Geiger, policy counsel for the CDT. "Persuading OPM to change how they will run this health records database will, I think, depend on whether the public sends in comments."

The OPM did not immediately respond to a request for comment.

Management-Employee Relations

Tele-Work Bill for Federal Agencies passed by Congress. The House passed the Telework Enhancement Act of 2010 on November 18th. The Senate passed its version of the bill on Sept. 29, and the legislation now goes to President Obama for signature. He is expected to sign the bill into law.

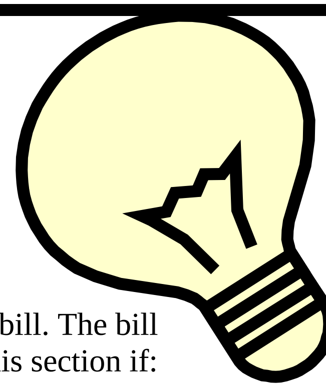
The purpose of the bill is to improve and expand teleworking in executive agencies by requiring each executive agency to establish a policy under which eligible agency employees may be authorized to telework; determine employee eligibility to participate in telework; and notify all employees of their eligibility to telework.

Currently about 5 percent of the federal workforce uses telework to some extent. The bill is projected to cost about $28 million to implement over a five year period. Supporters of the bill dispute that contending it will save money and improve agency productivity and efficiency.

The bill requires that an agency use telework provisions to the maximum extent possible; and without diminishing employee performance or agency operations.

The bill also notes that it does not require an agency to authorize teleworking in the case of an employee:

- if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;
- in emergency situations as determined by the head of an agency
- when an employee's official duties require on a daily basis direct handling of secure materials determined to be inappropriate for telework by the agency head; or
- on-site activity that cannot be handled remotely or at an alternate worksite.



Some employees will not be authorized to use the telework option under the bill. The bill states that an employee may not telework under a policy established under this section if:

- the employee has been officially disciplined for being absent without permission for more than 5 days in any calendar year; or
- the employee has been officially disciplined for violations for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

Agencies will also find new reporting requirements when the bill is passed into law.

OPM will be required to submit a report each year. In order to do this, agencies will be required to show the degree of participation by employees in each executive agency in teleworking, the degree of participation in each bureau, division, or other major administrative unit of that agency), including the total number of employees in the agency; the number and percent of employees in the agency who are eligible to telework; and the number and percent of eligible employees in the agency who are teleworking.

There will certainly be plenty of room in the new bill for bargaining agreements to be negotiated between agency and federal employee unions and, no doubt, areas for potential agreements regarding the implementation of the bill for individuals when the bill becomes law.

You can review the Telework Enhancement Act of 2010 in its entirety.

OPM Study Targets Poor Performers. The Office of Personnel Management wants to find out why the government has such a hard time disciplining or firing poor performers.

The agency has begun studying how it punishes employees who cannot or will not improve, Director John Berry recently said. The study is now focusing just on OPM, but Berry wants to broaden it to other agencies and asked for volunteers.

"We need to find out, where are the sticking points," Berry said in a keynote address to the Human Capital Management-Federal conference in Vienna, Va. "It may be that the law is powerful enough that the program actually, if well executed, will work, and it's just that we have gotten locked into myths and bad practices. [Or] maybe the law needs to be changed. I don't know yet."

Berry said focusing on performance accountability will be an opportunity for OPM to cooperate with the House's new Republican leadership.

"We have a credibility problem with the public," Berry said. "They believe that we have a tenure system, and nonperformers aren't held accountable for their performance and good performers aren't rewarded. And that is reflected in our employee surveys. It is crystal clear that we have a problem — our own employees are telling us this."

But Berry said he believes most federal employees are hard workers, and rejected the management philosophy proposed by former GE CEO Jack Welch that says an agency should fire the worst-performing 10 percent of its work force each year.

"I wouldn't want to work in a company like that, and I sure as heck wouldn't want to lead it," Berry said.

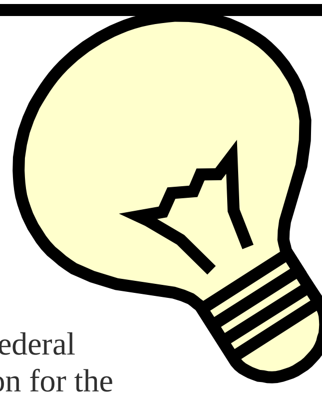
Berry said that OPM's experiment earlier this year with a Results-Only Work Environment, or ROWE, program — where about 400 employees had freedom to choose where and when they would work as long as they got their work done — helped the agency find out which employees weren't pulling their weight.

"The nonperformers stuck out like sore thumbs," Berry said. "In many cases, the nonperformers saw they were sticking out and got in the game. In some cases, they didn't, and our employees said, 'Wait a minute. I'm working, breaking my back, doing a good job. Why are we carrying dead wood? Why aren't you firing that person?' "

Berry said OPM didn't think ahead before launching ROWE and adjust employees' performance plans so poor performers could be held accountable. But OPM has extended the ROWE experiment for another year, and is now using labor-management partnership councils to renegotiate performance agreements so employees can be held accountable if they do not improve.

Barriers to Employment of Disabled Examined. Following is the summary of a GAO report on a forum the agency conducted on barriers to greater employment of disabled people in the federal government.

The Rehabilitation Act of 1973 (Rehabilitation Act) requires agencies to take proactive steps to provide equal opportunity to qualified individuals with disabilities, but their rate of employment with the federal government remains low. GAO was asked to identify barriers to the employment of people with disabilities in the federal workforce and leading practices that could be used to overcome these barriers.



On July 20, 2010, GAO convened a forum to identify leading practices that federal agencies could implement within the current legislative context. In preparation for the forum, GAO surveyed a wide range of knowledgeable individuals to identify barriers and leading practices. Forum participants were selected from among respondents (or their representatives) to reflect varying expertise and views concerning the employment of individuals with disabilities. The survey results formed the basis for the initial forum agenda, and were refined by participants to focus on actions they deemed most important. Comments in this report do not necessarily represent the views of any individual participant or the organizations that these participants represent or with which they are affiliated, including GAO.

Participants said that the most significant barrier keeping people with disabilities from the workplace is attitudinal, which can include bias and low expectations for people with disabilities. According to participants, there is a fundamental need to change the attitudes of hiring managers, supervisors, coworkers, and prospective employees, and that cultural change within the agencies is critical to this effort. Participants identified practices that agencies could implement to help the federal government become a model employer for people with disabilities. Participants reached the following conclusions: (1) Top leadership commitment is key to implementing and sustaining improvements. Unless top agency officials are committed, improvements will not happen. (2) Accountability is critical to success; goals can help guide and sustain efforts and should be reflected in human capital and diversity strategy plans. (3) Regular surveying of the workforce on disability issues provides agencies with important information. Participants suggested that surveying be implemented at all stages of the employment life cycle. (4) Better coordination could help improve employment outcomes, as coordination within and across agencies is critical. (5) Training for staff at all levels can disseminate leading practices throughout the agency. This provides agencies the opportunity to communicate expectations regarding the implementation of policies and procedures related to improving employment of people with disabilities. (6) Career development opportunities inclusive of people with disabilities could facilitate advancement and increase retention. Participants suggested that agencies offer details, rotational assignments, and mentoring programs that are fully accessible to all employees. (7) A flexible work environment can increase and enhance employment opportunities for people with disabilities. Participants emphasized telework as a key component, as well as flexible work times and job sharing. (8) Centralizing funding at the agency level can help ensure that reasonable accommodations are provided. Participants stated that effective centralized funds should include accountability, flexibility, and universal availability. Although forum discussion focused on practices agencies could implement, participants also noted the need for model policies and guidance from the Equal Employment Opportunity Commission and the Office of Personnel Management (OPM). This is consistent with the July 2010 executive order that directs OPM to work with other agencies to design model recruitment and hiring strategies for individuals with disabilities.

Work Environment Found Hostile. On September 17, 2010, the Equal Employment Opportunity Commission's Office of Federal Operations ("OFO") issued its decision in Mercedes v. Department of Justice, EEOC Appeal No. 0120102127. Reversing a final agency decision, OFO found the agency had subjected Mercedes to a hostile work environment and remanded the case for proceedings on damages.

Mercedes is a senior correctional officer for the Federal Bureau of Prisons, working at a correctional facility in Ayers, Mass., and is a Latino black American from the Dominican Republic. Starting in September 2006, Mercedes was subjected to sexually-provocative comments from a same-sex coworker which were made at work in the presence of inmates. The complainant became concerned that these comments were undermining his authority as a corrections officer in the eyes of the inmates—a situation which could place him in danger—as they were further creating tension with his coworkers. He complained to a manager, who dismissed the conduct by the harasser on the basis that the coworker was just "weird." Two other male coworkers (one white and one Hispanic) testified that they were subjected to similar conduct by the same coworker. The white coworker described the harasser as a racist.

In several incidents, the harasser would excessively ring the doorbell to the prison unit, unnecessarily as Mercedes could see the harasser at the door. The harasser had been counseled previously not to overuse the doorbell in this fashion. The doorbell could be heard throughout the prison unit. Mercedes and the two other harassed coworkers all testified that the harasser engaged in this doorbell behavior most often when minority employees were working the unit. After a series of these incidents, Mercedes verbally challenged the harasser about the doorbell ringing in November 2006 by phone, and then over the radio once the harasser hung up. In response, the harasser—over the radio—announced that "he would see him [Mercedes] in the parking lot".

Mercedes asked the harasser at the time if he was looking for a fight, to which the harasser did not respond. Mercedes, several coworkers and other individuals outside the prison who happened to be listening to that frequency (including several local firefighters) testified that they interpreted the statement as the harasser challenging Mercedes to a fight. Mercedes reported this to his supervisor and requested that the police be notified. The supervisor instead told Mercedes and the harasser to write memoranda concerning the incident, leading

Mercedes to believe that the matter was not being taken seriously by agency management. Later, after an internal investigation, the agency transferred the harasser to a different unit, although friends of the harasser remained in Mercedes' unit, causing Mercedes to fear possible retaliation.

In January 2007, Mercedes filed an EEO complaint, alleging harassment on the bases of race, sex and national origin. After investigation, Mercedes requested a final agency decision. The decision found the conduct to not be sufficiently severe and pervasive to constitute actionable harassment under Title VII, and that Mercedes failed to show that he was being singled out for harassment. Mercedes then appealed.

On appeal, OFO reversed the agency's decision. It found that, while the conduct complained of by Mercedes might not ordinary be sufficiently severe or pervasive to constitute actionable harassment, it became sufficiently severe or pervasive when considered in the unique workplace context of a correctional facility—an environment where a loss of apparent authority in front of dangerous inmates could place Mercedes in physical danger. OFO found sufficient evidence that the harasser was targeting minority coworkers. OFO also found that management had failed to take any meaningful action to remedy the harassment after managers were apprised of the harasser's conduct. OFO thus found the agency to have violated Title VII through race and national origin discrimination, and remanded the case to the agency for proceedings on compensatory damages. OFO also directed remedial training for agency managers and ordered the agency to consider possible disciplinary action against the harasser and against those who failed to promptly correct the hostile work environment.

Training, Self-Development, and Personal Improvement

Human Resources (HR) for Supervisors Course. The HR for Supervisors Course encompasses instruction applicable to the Legacy (i.e. GS) System. The course is 4.5 days long, includes lecture, class discussion, exercises; and, is designed to teach new civilian and military supervisors of appropriated fund civilian employees about their responsibilities for Civilian Human Resource Management. This instruction does ***not*** cover supervision of non-appropriated fund (NAF) or contract employees.

Instruction includes the following modules:

- Introduction of Army CHR which includes coverage of Merit System Principles and Prohibited Personnel Practices, CHRM Life Cycle Functions, Operation Center and CPAC Responsibilities
- Planning
- Structuring – Position Classification
- Acquiring – Staffing and Pay Administration
- Developing – Human Resources Development
- Sustaining – Performance Management, Management Employee Relations, Labor Relations

Training dates for the next iterations of this course are below. Registration information will be disseminated electronically three weeks before each class start date.

Next course offerings:

6-10 Dec 10
14-18 Mar 11
13-17 Jun 11
19-22 Sep 11
5-9 Dec 11

RPA and ART Workshop. The Fort Benning CPAC HR specialists are available to conduct RPA and ART desk-side walkthroughs and/or workshops to assist HR liaisons, managers/supervisors, and new DCPDS account holders with accessing and using DCPDS, ART, initiating RPAs, forwarding and tracking RPAs, generating reports and printing SF 50s. Training can be accomplished via individualized sessions or activity specific workshops upon request. If you desire training of this nature, please contact your servicing HR specialist to arrange for scheduling.

Job Aids Available on the Web. Lotus ScreenCams (how-to-movies) are available to assist DCPDS users with DCPDS, Army Regional Tools (ART), Oracle 11i and other automation tools. ScreenCam movies ART Logon, Ghostview, Gatekeeper, Inbox Default, Initiating an RPA, Logging On, Navigator, RPA Overview and RPA Routing are available on the web at: http://www.chra.army.mil/. Click on HR Toolkit and then click on the name of the movie to download or play it. Managers/supervisors and administrative personnel responsible for initiating RPAs are encouraged to review this site and check out these new tools. ART Users Guide has been updated and provides descriptions of and instructions for using tools available in ART, including such tools as Employee Data, Inbox Statistics (timeliness and status information about personnel actions), Organization Structure (information about positions in various organizational elements), and many more tools. It is intended for use by managers, resource management officials, administrative officers, and commanders as well as CPAC and CPOC staff members. There is both an on-line and downloadable Word version (suitable for printing).

In addition, to the ART Users Guide, there is a Defense Civilian Personnel Data System (DCPDS) Desk Guide which provides how-to information about tasks and functions that end users might need to perform in DCPDS, such as initiating a Request for Personnel Action (RPA) and creating a Gatekeeper Checklist. The ART Users Guide and the Desk Guide can be accessed from the CHRA web page at: http://www.chra.army.mil/, by clicking on HR Toolkit. In addition to these tools the Fort Benning CPAC staff is available to assist you in accessing DCPDS, ART, initiating RPAs, creating a Gatekeeper Checklist, forwarding and tracking RPAs, generating reports and printing an SF 50. If you have any questions or need assistance, please contact your servicing HR specialist to arrange a time so we can come to your office to help you.

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