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Update on Carrigan vs Carrigan Ruling

On December 11, 2013 the Ontario government introduced Bill 151 which contained amendments to the Pension Benefits Act (PBA) to resolve the uncertainty created by the 2012 Ontario Court of Appeal decision in this case. The position of the Financial Services Commission of Ontario (FSCO) was that plan administrators were not in contravention of the PBA if they continue to treat the member's common-law spouse as entitled to a joint and survivor pension under section 44, even if the member is still legally married to another person (who is living separate and apart from the member at retirement). When the Supreme Court of Canada denied leave to appeal the Ontario Court of Appeal's decision in Carrigan v. Carrigan Estate (Carrigan), it made that decision final. That decision denied the payment of a pre-retirement death benefit to the common-law spouse of a plan member who was still legally married to another person. In the May 2013 budget, the Ontario government announced a commitment to review the ruling in Carrigan and, if necessary, amend the regulations under the PBA Act. FSCO had also communicated that it is the superintendent's position that there is no requirement for plan administrators to revisit the payment of any pre-retirement death benefits prior to October 31, 2012. The amendments in Bill 151 clarify how the definition of "spouse" applies and plan administrators should still follow the rules set out in FSCO's position.

"While there is still some uncertainty around the law, I believe our reenrollment process will minimize situations like Carrigan from surfacing in our book of business as well as remind our clients' membership of the importance surrounding their spousal/beneficiary appointment." **MIKE NEHELI , PRESIDENT OF MANION.**

What REALLY is the most significant issue facing employee benefits plans?

Brian Lindenberg, senior partner with Mercer in Calgary provided an interesting take on the most significant issue facing employee benefit plans. It's not the impact of rising drug costs but changing employee demographics. Not only standard measures such as age and sex but also family status, culture, diversity and general health.

Below is an extract from his article on the subject in the August 30, 2013 edition of *Benefit Canada News*.

Demographics influence the following:

- **Rating**—Benefits plans are rated, at least, in part, based on demographics. For example, age and sex are key components in the pricing of risk benefits such as life and disability. Family status obviously has an impact on unit costs.
- **Usage**—Demographic drives plan utilization, which, in turn, drives costs. Age is a determinant in population health. As we age, we tend to use some benefits such as health and disability more frequently.
- **Needs/wants/expectations**—Our needs/wants/expectations of the benefits plan are driven by who we are (age, sex, culture, health, etc.). And these needs/wants/expectations vary considerably based on our individual demographic characteristics.
- **Delivery**—Demographics also play a factor in how we want to receive information about our benefits plans and, in fact, how we want the benefit and/or service delivered.

In short, employee demographics influence every aspect of employee benefits programs. Yet most plan sponsors—other than basic statistics such as average age, male/female split and/or number of single employees versus those with dependents—do not have a complete picture of their employee population and how changes in this profile will impact their benefits plans in the future.

Let's consider some of the more significant demographic trends impacting Canada today.

- **Aging**—It's been well documented that Canada's population is aging, so it stands to reason that most workforces are getting older. As a consequence, age-rated benefits will cost more, and utilization in the areas of health and disability will increase. Preferences for certain benefits will start to shift (e.g., post-retirement benefits). And on a macro level, the aging population is expected to create a labour shortage in Canada (with employees exiting the workforce through retirement) creating a need/desire to keep otherwise retirement-age employees working for longer. Retirement age will become an increasingly difficult number to peg; therefore, termination provisions under benefits plans will need to adapt.
- **Diversity**—There are a number of elements to diversity such as culture, generational and the definition of family. Canada is already a multicultural nation and is expected to become more culturally diverse. With declining birth rates, the future labour shortage in Canada is expected to be filled almost exclusively through

an immigrant workforce. There has been a lot written on the different generations now active in the workforce. And the definition of family is clearly not what it once was with blended families, same-sex relationships, overage dependents and pets—for some—replacing children. This diversity should shape the design and delivery of benefits plans in the future, far more than the standard one-size-fits-all plan of today.

- **Access**—We live in a world of increasingly instantaneous access to goods, services and information. In many cases, this access is facilitated through technology. Even five years ago, who would have thought that the mobile phone would be so dominant in how we currently live our lives? Some generations are clearly more comfortable with using technology and the communication protocols embedded within that technology. All generations are demanding quick and easy access. It's important for benefits plan sponsors to acknowledge these trends and adapt both the delivery and communication of benefits to members.

There is a tremendous opportunity to better manage and make benefits plans more relevant by understanding these demographic shifts and recalibrating them as necessary. It starts with understanding your current workforce—not only in simple terms (such as age, sex, etc.)—but who they are, where they came from and what's important to them.

Most workforces are likely to change dramatically in the coming years, therefore plan sponsors also need to think in terms of the workforce of tomorrow. This is key to designing and delivering a benefit programs that are demographically relevant.

Canada Employment Insurance Commission announces 2014 Maximum Insurable Earnings

Further to the Government of Canada's announcement that it will freeze the Employment Insurance (EI) premium rate for employees at the 2013 level of $1.88 per $100 of insurable earnings for 2014, and additionally that the rate will be set no higher than $1.88 for 2015 and 2016, the Canada Employment Insurance Commission (CEIC) announced on September 9, 2013 that the EI Maximum Insurable Earnings (MIE) for 2014 will increase to $48,600 from $47,400 in 2013. In accordance with the Employment Insurance Act, the MIE is indexed on an annual basis and represents the ceiling up to which EI premiums are collected and the maximum amount considered in applications for EI benefits.

For residents of Quebec covered under the Quebec Parental Insurance Plan (QPIP), the premium reduction will be $0.35 per $100 of insurable earnings. As such, they will pay $1.53 per $100 of insurable earnings. There will also be reductions for the employers registered under the Premium Reduction Program (PRP). The reductions for these employers will range from $0.22 to $0.37 per $100 of insurable earnings, providing $852 million in premium relief. Registered employers will be notified individually, as individual premium reductions may vary.

Furthermore, for self-employed Canadians who have opted-in to the EI program, the annual earnings required to qualify for special benefits will increase to $6,515 on January 1, 2014, up from $6,342 for 2013. The level of earnings required by self-employed Canadians to be eligible for EI special benefits is indexed annually to growth in the MIE.

While Canada has seen steady job creation since the end of the global recession with over one million net new jobs, challenges remain in the global economy. The rate freeze for EI premiums announced today by the Honourable Jim Flaherty, Minister of Finance, demonstrates the concrete action this government has taken to ensure the predictability and stability of EI premium rates. This leaves $660 million in the pockets of job creators and Canadian workers in 2014 alone which will help employers, especially small businesses, keep growing.

To learn more information about the CEIC, please visit www.hrsdc.gc.ca/eng/jobs/ei/commission/index.shtml.

Canada Revenue Agency announces maximum pensionable earnings for 2014

On November 1, 2013 The Canada Revenue Agency announced that the maximum pensionable earnings under the Canada Pension Plan (CPP) for 2014 will be $52,500—up from $51,100 in 2013. The new ceiling was calculated according to a CPP legislated formula that takes into account the growth in average weekly wages and salaries in Canada.

Contributors who earn more than $52,500 in 2014 are not required or permitted to make additional contributions to the CPP.

The basic exemption amount for 2014 remains $3,500.

The employee and employer contribution rates for 2014 will remain unchanged at 4.95%, and the self employed contribution rate will remain unchanged at 9.9%.

The maximum employer and employee contributions to the plan for 2014 will be $2,425.50 each, and the maximum self-employed contribution will be $4,851.00. The maximums in 2013 were $2,356.20 and $4,712.40.s