

BENEFITS CORNER



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“Improving the ACA”

While the technology rollout of the new Health Insurance Marketplaces was less than smooth, the Affordable Care Act (ACA) is likely our country’s best option to make the healthcare more affordable over the long haul. Don’t get me wrong- I am not a total cheerleader for the ACA. The basic principles of the law, however, get a lot of things right. Things like guaranteed access to health insurance, financial assistance for those under certain income limits to purchase coverage, the Medical Loss Ratio that limits health insurance company profit levels and the individual mandate are all positive steps in the right direction just to name a few.

It is in the level of micro-management of the health insurance sector while avoiding changes to the cost side of care that cost curve of coverage is not likely to change significantly. Your health insurance premium is simply a reflection of the cost of care; the more claims that are made and the more costly those claims are year-over-year means that your health insurance premiums will continue to rise every year. All the regulation of health insurance will not stabilize or lower your premiums until this relationship is addressed in a meaningful way. By the way, Health and Human Services recently announced that they expect to issue somewhere between 45 and 50 new sets of rules and regulations this year for the ACA with more to come next year (there’s the micro-management!).

With that in mind, I would like to suggest a few changes to the ACA that could have the effect of getting and

keeping more people covered and eases the looming administrative burden for employers that sponsor health insurance plans for their employees.

The heart of the ACA is the individual mandate which is the provision that requires all legal U.S. residents to have health insurance or pay a tax penalty. The tax penalty is so small, however, that it does not provide much incentive to change the behavior of those that are uninsured. The annual penalty needs to be raised from its current level of the greater of \$95 or 1% of income. A true penalty level should be closer to the greater of \$3,500 or 8% of income. This penalty level would be more similar to the actual cost of coverage and put “teeth” in the individual mandate.

Another change would be to eliminate the employer mandate that is scheduled to go into effect on January 1, 2015. This is the provision that is causing several employers to cut back employees’ hours so as to keep them from being eligible for health insurance. While there is not great data around this, there is enough anecdotal evidence to suggest that this provision is holding back new hiring. If an employer needs to offer benefits to attract and retain good employees they will continue to do so without a mandate. There are some businesses that don’t need to offer coverage to maintain their workforce and they should not be forced to change their cost structure to do so.

In exchange for eliminating the employer mandate, the law should lower the ability of an employer to deduct the entire amount of premium they pay from 100% to somewhere in the 75%-80% range. This should provide more tax revenues to the government to allow a similar tax treatment for those purchasing individual health insurance. Right now, individuals who buy their own insurance have to pay their premiums with post-tax dollars. Individuals should receive the same tax advantage in premium payment as businesses.

The final couple of suggested changes would be for those employers that continue to offer coverage. First, the

mandated work-week hours to be considered eligible for coverage should be raised from 30 to 35. This should also eliminate the cut back in hours several employees are facing today. Thirty-five hours is much closer to “full-time” than 30! Another change would be in the maximum length of time that an employee must work for an employer before she becomes eligible for coverage. The law currently puts this figure at 90 days, but this will cause a bunch of administrative and billing difficulties for both employers and insurers. A change to the first of month following 90 days of employment would ease this burden without changing the intent of the law.

For those employers that do offer coverage all the coming new rules regarding discrimination of contribution levels should remain in effect. The new rules will be similar to pension contribution discrimination laws that prohibit an employer putting in a larger percentage contribution for their executives than the rank and file. This is likely to be a good thing overall for employees. The rules for discrimination testing are currently being written.

The suggested changes are not dramatic, but would provide for less disruption of the health insurance market than what is likely to occur over the next several months. More people would make the decision to purchase health insurance which was the primary objective of the Affordable Care Act. Unfortunately, making these changes would require legislation to be passed- good luck with that!

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