Benefit Bullets

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January 20, 2014

Small Employer Considerations for Group Coverage vs Individual Exchange Coverage

With Health Care Reform changes many employers are weighing all their options to determine how best to navigate the new options available. **Many employers are asking the question: "W*ould it be more cost-effective to drop group coverage and have employees buy individual coverage?"*** The following is intended to provide some clarification and points of consideration in evaluating this option.

Small Group Defined

- There are two different definitions of small groups which need to be considered. First groups that are considered small by not meeting the large group definition have the ability to consider dropping group coverage without any penalty considerations. **The *Applicable Large Employer* (ALE) definition is 50 or more full time equivalent employees (FTEs) with full time defined as 30 hours per week.** If a group has less than 50 FTEs in the prior calendar year, then they are not considered an ALE and are not subject to any of the Employer Shared Responsibility Penalties (Pay or Play).

- Second, the Affordable Care Act (ACA) permits each state to define small group and to determine the small group level from 2014-2015. **PA legislation has been passed to define small group as 50 or less total employees**. In 2016 for all States the level will move to 100. This definition does NOT consider full time equivalent, but is a straight average of total employees. If a group meets this small group definition, then they are subject to the 2014 small group underwriting requirements and specific plan designs with include Essential Health Benefits (EHBs).

- **NOTE**: Health Care Reform regulations require employer groups to apply the **aggregation rules for common ownership (IRC 414)**. Employers with common ownership in multiple businesses should review the aggregation rules and if they apply, all business must be included in determining employer size.

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Small Group Underwriting

- **Premium Rate Determining Factors**: In 2014 the only considerations allowed to be utilized in determining rates in both the individual and small group markets are 1) age; 2) geography; 3) tobacco usage; 4) tier – single, husband/wife, parent/child(ren) and family. Medical questions, gender, SIC codes are no longer allowable in determining rates. This change in underwriting will be a positive change for some employers, and a negative change for others.

- **Benefit Plan Designs**: The plans that will be offered in the individual and small group market must meet certain criteria. Plans must meet a minimum actuarial value of 60%. The actuarial value will mirror the metal level plans offered in the exchange. The plans will be limited to a $2,000/$4,000 deductible unless a higher deductible is needed to meet actuarial value and a maximum out of pocket of $6,350/$12,700. All plans must include the 10 EHBs as defined in the ACA. These plan changes will prevent some employers from continuing to offer the same plan design, which could increase cost.

- **Group Plan Purchasing Options**: Employers can choose to purchase group insurance either on or off the exchange. On the exchange is known as SHOP and small employers will need to utilize SHOP for the small employer tax credit.

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Employer Considerations

- **Individual Mandate**: In 2014, all US citizens will be required to have Minimum Essential Coverage (MEC) to avoid the individual shared responsibility tax. In 2014 the tax is the greater of 1% of MAGI (Modified Adjusted Gross Income) or $95. In future years the penalty amount increases. MEC coverage includes most group health plans, Medicare, Tricare, CHIP and all plans purchased on the exchange.

- **Exchange (FFM) Individual Plans**: On the exchange individuals will have metal level options of bronze, silver, gold, platinum, which correspond to actuarial value (60%, 70%, 80%, 90%) and for individuals under the age of 30 they may purchase catastrophic plans with lower levels of coverage. Subsidies on the exchange are provided based on the individual's household income (HHI). If the individuals HHI is between 100 - 400% of the federal poverty level (FPL) then they are eligible to receive a subsidy to offset the cost of their insurance based on the second lowest costing silver plan. ***However, this Federal premium subsidy is only available to employees if their employer does not offer them adequate (<60% actuarial value) and affordable coverage (Single premium contribution < 9.5% of household income). Also, for employees that earn over the 400% FPL, they will not be eligible for a subsidy and will pay the full premium on the exchange.***

- **Off Exchange Individual Plans**: Individuals can continue to purchase policies directly from the carrier on an individual basis. There are no subsidies available when plan as purchased directly from the carrier. The available plans on the individual market will meet the MEC requirements of the individual mandate***.***

- **Group vs. Individual Plan Designs**: PA is a Federally Facilitated Exchange/Marketplace (FFM). The individual plans offered on the FFM exchange are provided by many familiar carriers. However, although these plans and their benefit levels may looks similar to group plans, individuals and employers must be cautious as some of these plans have a limited provider network; so while the carrier may have a significant network, it may not be offering the entire network to plans in the exchange. Therefore it is very important to carefully compare group plan designs to those offered to individuals on the exchange.

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Employer Considerations Continued...

- **Group vs. Individual Premium Comparisons**: Additionally, it is difficult to compare premiums because on the exchange they are only showing premiums for specific ages. Current employer plans have rates based on tiers (single, husband/wife, family), and in the exchange the rates will be member-specific based on age. So comparing a current single premium to a rate on the exchange for a specific age is not a legitimate comparison. In 2014 employers in the small group market will have rates based on age also, so at that time the comparison will be more meaningful.

- **Tax Considerations**: Employers are prohibited from providing employees pre-tax contributions to purchase individual insurance. Employers currently provide benefits to employees on a tax free basis (employees are not taxed on the benefits they received from their employer). If there is a cost sharing component, employers can offer pre-tax contributions through a section 125 plan. This provides a tax benefit to both the employee and the employer. If employers eliminate group coverage and want to provide compensation to their employees to purchase insurance that compensation is considered taxable income. Additionally, by increasing an individual's income it will impact the amount of subsidy they are eligible for in the exchange, if their HHI is less than 400% of FPL. Further, increasing an employee's compensation will also increase all associated payroll taxes.

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Options available for employers to offset the cost of individuals policies include:

- Increase salary/hourly rate which is taxable to employees and may impact the employees' eligibility for a subsidy on the exchange.
- Pay for the policy directly or reimburse the employee for the premium. This option them becomes a taxable benefit to the employee and the premium amount must be included as taxable income.
- Although, there are some administrators offering a before tax option for employers, based on IRS regulations and legal and tax interpretations of these regulations this appears to be non-compliant. Any employer implementing one of these options should be aware of the potential tax consequences and possible ERISA violations.

- **Looking Forward**: Individual rates on the exchange are expected to be lower in the first 2 years because of reinsurance subsidies by the Federal government. Further, reasonable long term rate increases in the individual market will be highly dependent on the ability of the exchanges to attract young and healthy buyers. These factors make predicting the long-term cost competitiveness of individual policies difficult. If rates on individual policies soar and the group coverage may be a better option and it may prove difficult getting employees back into the fold once they have left.

As each employer's specific circumstances will have an impact on deciding the best option, there is no one correct answer. Navigating the new and challenging insurance markets will require knowledgeable advisors.

Please contact your account manager for assistance or additional questions.

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