Healthcare Reform and Employers: Next Steps

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In March 2010, new federal laws were enacted that will bring about significant changes to the U.S. healthcare system. Employers, individuals, health plans, and other stakeholders will be affected by this new legislation. For employers, here's a high-level look at how these new laws may affect you along with the decisions you need to start thinking about now.

SHORT-TERM CONSIDERATIONS: "THINGS TO THINK ABOUT NOW"

To grandfather or not to grandfather? For most employers, that is the question that has confronted them first. The decision about when to switch is a complex one that is dependent on the specific circumstances of individual employers. Employers must carefully weigh desired changes to their healthcare programs with the impact of losing grandfathered status if those changes are outside the ranges of allowed grandfathered changes.

Regardless of grandfathered status, the following critical factors must be addressed for the plan year beginning after September 23, 2010 (as of January 1, 2011, for calendar year plans):

- **Child coverage to age 26** (i.e., up to a child's 26th birthday). Extending coverage to adult children will increase the complexity of plan administration and increase costs for many employers. Because there is some flexibility in the implementation of the extended coverage, employers will need to decide how and when to extend the coverage to adult children.
- **No lifetime maximum benefit limits and restricted annual benefit limits.**
- **No reimbursement from savings accounts of non-prescribed drugs.** This affects flexible spending accounts (FSAs), health savings accounts (HSAs), and health reimbursement arrangements (HRAs). It may become a claim adjudication challenge, particularly for over-the-counter drugs.
- **Mandated coverage and no member cost sharing for certain preventive services** (not required for grandfathered plans).
- **Offering long-term care benefits** through the federal CLASS program.

In addition, employers need to consider a good many new complexities in the coverage for their retirees, including:

- The Early Retiree Reinsurance Program
- Changes to Medicare prescription drug benefits
- Changes to Medicare Advantage plans

THE NEW LANDSCAPE STARTING IN 2014

- State-level insurance exchanges will be established that will offer authorized healthcare plans to individuals and small groups.
- Individuals must obtain minimum essential coverage or pay penalties to the federal government.
- Employers must provide minimum essential coverage or pay penalties to the federal government.
- Certain low-income employees will be eligible to receive governmental assistance to purchase coverage.
- The Medicare Part D coverage gap (the donut hole) will be closing.

MEDIUM-TERM CONSIDERATIONS: "THINGS TO THINK ABOUT SOON"

With the potential advent of a viable individual healthcare insurance market in 2014, employers will need to make fundamental decisions about their healthcare program. Key considerations will include:

- **The level of benefits to offer**: If a suitable individual market emerges through the health exchanges, employees will have an alternate source of coverage that will essentially compete with employer-sponsored plans. Employers will need to analyze the

value of continuing to directly offer healthcare benefits compared with paying the penalty by offering cash to employees to purchase coverage on their own or simply discontinuing the benefit. This decision is similar to employer decisions to provide defined benefit plans (e.g., pensions), defined contribution plans such as a 401(k) plan, or some combination of both types of plans.

- **How to control costs and manage employee health**: Although there are various pilot-like cost-control and wellness programs contained in the new legislation, the new law does not focus on these issues. In addition to today's familiar ongoing large increases in employer healthcare costs, other factors may emerge to play a role, such as higher demand for healthcare services from the expansion of the insured population; pass-through costs from additional taxes on pharmaceutical manufacturers, medical device manufacturers, and insurers; higher reimbursement levels that result from an enhanced market position for providers, and various issues related to selection as lower- and/or higher-risk members begin purchasing coverage through the exchanges.

- **Various new reporting requirements**: The new regime of reporting requirements promises to bring a host of complications.

Additional issues that employers will confront as the transition is made into the new healthcare insurance landscape include:

- Will employees understand the importance of and choose to purchase coverage or pay the fines? What assistance will they need from their employers in making good decisions such as the advantages of continuing employer coverage or obtaining coverage through a state-level insurance exchange?

Although there are various pilot-like cost-control and wellness programs contained in the new legislation, the new law does not focus on these issues.

- How will employee coverage choices affect the enrollment patterns and associated costs of an employer's healthcare benefit program?

- How would discontinuing traditional defined-benefit healthcare benefits affect attraction, retention, and productivity?

- How would the employer's competitive position be affected by continuing or discontinuing traditional healthcare benefits?

Please contact a Milliman consultant for assistance with compliance, strategic design, and pricing related to the new healthcare reform legislation.

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