The Small Group Market

Whether the individual mandate in the Affordable Care Act stood or was struck down would have no effect on how the remainder of ACA affects the small group health insurance market.

While ACA classifies businesses into a number of classifications based on total headcount, the generally accepted definition of a small group for most of the remaining mandates in ACA is a company with fewer than 50 employees.

Some portions of ACA deviate from the 50-employee definition for various reasons and those provisions will be addressed later.

Misinformation

Much of the news items of the Affordable Care Act are taken out of context or misreported entirely. For example, ACA places no mandate on small business owners to purchase health insurance for their employees.

ACA does not impose any penalties on small groups that do not offer and pay for health insurance, even if one of the employees qualifies for a government subsidy.

ACA does not require small employers to begin reporting the value of their health insurance plans on employees W-2 forms in 2013. In fact, ACA allows groups with fewer than 250 employees an exemption to this requirement, among other exempted groups.

Other items that have made the rounds through the internet are not part of ACA such as 1099 reporting for any annual expense over $600. Legislative action since the passage of ACA has repealed this and other burdensome provisions.

Never the less, ACA does present some challenges to small employers who offer health insurance. ACA also offers some enhancements that could attract small employers to purchase health insurance for employees.

New Benefits and Mandates

January 1, 2014, the Affordable Care Act will begin to be fully implemented. For those employers who offer coverage and are thinking about offering group coverage, premiums and benefits will be quite different than on December 31, 2013.

-Premiums will not be age biased to the extent they are now. Though some health plans offer "composite" rates where everyone pays the same premium regardless of age, the underwriting that went into those rates was based on age tiers. Employees at age 60 or higher often are rated 7 times more than the typical 20-year-old. In 2014 that age bracketing will compress from 7 to 1 to 3 to 1.

Look for the rates for the youngest people to go up substantially, perhaps by as much as 200% or more.

-Premiums will not be gender biased anymore. Whereas today, premium rates for women are usually higher than for males, ACA closes that hole in 2014. All rates will be unisex rates.

-Premiums will not be health biased. With the exception of tobacco use, health insurance premiums must be the same for those with pre-existing health conditions as for those who have no pre-existing health conditions.

-Waiting periods for those with pre-existing health conditions will not be allowed. Small employers may still impose a waiting for enrolling new employees, but the waiting period can not be any longer than three months.

-All health plans grandfathered from the enactment date of March 23, 2010, through December 31, 2013, will lose that status on January 1, 2014. That means grandfathered plans that historically were a little less expensive than non-grandfathered plans will lose that designation and must comply with all mandates of ACA.

-Health plans must cover maternity the same as any other illness. For groups of fewer than 15 employees, maternity will no longer be an optional benefit.

-Health plans must also treat mental health care as any other sickness

-Health plans will not be allowed to impose an annual maximum benefit.

-Children will continue to be allowed to remain on a parent's plan until age 26. Some plans will allow this even if the child is working and is covered by his/her employer's health plan.

All health plans must include Essential health Benefits. The Department of Health and Human Services will further define these in time. However, ACA stipulates that three levels will be Gold, Silver and Bronze. All three will contain all EHBs and vary only by deductibles and other out of pocket expenses.

At this time we do know EHBs include coverage for doctor visits, hospital services, emergency care, prescription drug coverage, and routine exams/wellness.

HHS has issued rulings that define routine exams/wellness to include at no out of pocket costs to the insured: physical exams, colonoscopies, contraception, sterilization services.

Continuation of Current Mandates

Some mandates have been implemented since the beginning of the passage of the law in 2010. They include:

-Treatment of emergency care as in-network
-eliminating lifetime maximum benefits. All health plans must have unlimited lifetime benefits.
-Insurance plans cannot have "unreasonable" annual benefit maximums. Annual caps will be eliminated in 2014.
-Claim appeals are available for a speedy review through a third party.
-Children are not subject to a waiting period for pre-existing conditions when enrolled as dependents on a group plan and may remain on the plan until age 26.

Taxes, Penalties and Credits

-ACA does not impose any tax obligations on small employers who do or do not offer group health insurance.

However, employers of fewer than 25 employees may be eligible for a tax credit toward the cost of health insurance. Generally, average payroll must be lower than $50,000/year and owners are not eligible for the credit.

The credit is available for up to three years once it is first elected.

-Employees and owners who make more than $200,000/year or $250,000 as joint tax filers will be subject to higher Medicare payroll taxes. The tax will increase by .9% on earnings.

ACA imposes other taxes that will not be assessed on plans, employees or employers, but rather on the purchase of covered goods and services and additional taxes on insurance company premium revenues. Some of those taxes will have to be passed on to insurance plans in the form of higher premiums.

They include, among others:

> Tax on medical equipment. However the latest news indicates Congress is likely to pass legislation repealing this tax and subject to presidential approval.
>
> Drug companies will pay a tax on brand name drugs dispensed. A sliding scale will determine the amount of the tax.
>
> Elective medical procedures (those services not covered by insurance) will be taxed.

-Employers who offer rich or expensive health plans may be subject to an excise tax of 40%. This is known as the "Cadillac Tax". The tax is scheduled to go into effect in 2018. Experts believe the 40% excise tax will apply only to the value of the plan that exceeds the government's pre-defined standard benefit plan. The Internal Revenue Service has not released a formula to determine the tax to date.

ACA will use the additional taxes, along with penalties from large group plans and individuals, to help finance the subsidies awarded to individuals and families who qualify for government subsidies.

-Small owners (with 50 or fewer employees) will need to evaluate their headcount. ACA includes a couple of provisions that could shift a small employer to large group status, and thus be subject to penalties assigned only to large groups.

> ACA combines businesses with common ownership. If businesses have common ownership with total headcount 50 or more full time employees and Full Time Equivalents, the combined group is reclassified as a large group.
>
> Full Time Equivalent (EFT) employees take into account part time employees. Please refer to Large Group for the formula.

Once qualified as a large group, the penalties apply. The employer will NOT be required to offer health insurance but, a penalty will be assessed to the employer if an employee earns a subsidy from the government. It does not matter if group health insurance is offered or not.

Premium Reduction

Most experts now agree the Affordable Care Act, as it relates to consumers and health insurance, is not going to reduce premiums. The law does not go far enough to include the healthy uninsured population in the insurance system. It reforms health insurance to the point of imposing newer more expensive services and eliminating pre-existing conditions that premiums are likely to go even higher in the years to come.

One provision that has drawn a lot of attention lately is the Medical Loss Ratio (MLR). This provision requires small group health insurance plans to pay 80% of all premiums toward claims and wellness programs. If an insurance company does not pay out 80% of the premiums in claims, the difference must be returned to the employees.

Some insurance plans will issue refund checks beginning in August for plan years 2011. The average check is $127.

Others say the mandated wellness benefits including 100% coverage for physicals and contraception will help lower total healthcare costs over time.

The Exchange will be operational in 2014. The framers of ACA believe the Exchange will provide another market place for insurance companies to compete with one another. Small groups up to 100 employees will be allowed to shop for insurance through the Exchange. The benefits in the exchange may be more limited than what will be available in the private market.