Affordable Care Act Provisions
Affecting Employers

2014

Essential Health Benefits

What They Are

All policies in the individual and small group market—inside and outside of the exchange—must include coverage in 10 categories deemed essential by the Affordable Care Act (ACA). However, this requirement is waived until 2016 if permitted by the states.

How They Work

The ACA defines the following 10 categories as essential:

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment
- Prescription drugs
- Rehabilitative services and devices
- Laboratory services
- Preventive and wellness services and chronic disease management
- Pediatric services, including oral and vision care

However, it does not define what coverage means in the context of those categories. The Department of Health and Human Services (HHS) moved much of the decision-making associated with essential health benefits to the state level. It outlines that states should choose a benchmark plan from one of four types of plans:

- One of the three largest small group plans in the state by enrollment
- One of the three largest state employee health plans by enrollment
- One of the three largest federal employee health plan options by enrollment
- The largest HMO plan offered in the state's commercial market by enrollment

Those who choose not to define their own plan will be subject to the small group health plan with the largest enrollment.

What They Mean to Manufacturers

Mandated benefits raise costs. In states with a robust number of state mandates, the benchmark plans will not allow employers to control their costs. Small manufacturers are affected by this most directly. However, it is expected that the mandated benefits will likely become standard and in a short time affect all self-insured plans.

Health Insurance Tax

What It Is

The health insurance tax (HIT) is a new excise tax on fully insured plans provided by health care insurers.

How It Works

The tax is assessed on health insurance companies based on their “net premiums” written. A health insurance company is defined in statute to specifically exclude employers that self-insure. Thus, the only fully insured plans are affected by the HIT. It is expected that this tax will be passed on to purchasers of fully insured products.

What It Means to Manufacturers

The tax will raise $8 billion starting in 2014 and more than $100 billion over the next 10 years. A congressional Joint Committee has estimated the tax would increase premiums between 2 and 2.5 percent. By 2016, this would add another $350 to $400 to the annual cost of coverage for a family of four. This tax will also increase costs for companies—primarily smaller employers—that are fully insured through an insurance company.

Reinsurance Fee

What It Is

A reinsurance fee is designed to fund a reinsurance program for the individual market for three years. Although the focus is the individual market, employers—both fully insured and self-insured—will bear the burden of paying the large and burdensome fee.

How It Works

The ACA authorizes states to establish a “transitional reinsurance program” with a goal of stabilizing premiums in the individual market during the first three years that state health insurance exchanges are operational. As is the case with other facets of the law, if a state chooses not to establish a reinsurance program, HHS will do so.

The law states that fund contributions should total $25 billion over three years: $12 billion for 2014, $8 billion for 2015 and $5 billion for 2016.

What It Means to Manufacturers

The fee has been set at $63 per covered life for the first year and decreases in years two and three of the program. This translates to roughly $3.3 billion in costs for manufacturers between 2014 and 2016. In addition, for 2015, the tax exempts certain self-insured, self-administered plans, increasing the expected cost to the remaining plans for the final two years.

Affordability Tax Credit

What It Is

The affordability tax credit is a health insurance premium tax credit for individuals and families who cannot obtain affordable health insurance through their employers or certain government-sponsored plans.

How It Works

According to the ACA, employer-provided health coverage is not considered affordable if the employee's required contribution to the plan exceeds 9.5 percent of the applicable taxpayer's household income for the year.

The regulation states that for determining affordability, the employee-required contribution is calculated by the amount for self-only coverage, even if the individual would be purchasing family coverage or other coverage for multiple individuals. This, however, is only guaranteed until the end of 2014.

What It Means to Manufacturers

If the coverage offered does not meet the affordability standard, employees may be eligible for tax credits to purchase insurance on their own through the exchange. If the employee claims credits, the employer will be subject to the penalties the employer mandate defines.

2015

Employer Mandate—100 Employees and Above

What It Is

The employer mandate requires employers with 100 or more employees to provide coverage or face penalties and fines. An employer is considered to have fulfilled this requirement if, in 2015, the employer provides affordable coverage to 70 percent of its employees.

How It Works

If a firm with at least 100 full-time, or full-time equivalent, workers has a full-time employee who is getting a premium tax credit or a cost-sharing subsidy through an exchange, then that employer must pay a penalty for not offering that worker affordable insurance as defined by the ACA. Workers who are offered qualified coverage by an employer are ineligible for the new insurance subsidies provided in the exchanges. The penalties increase each year to reflect expected growth in insurance premiums.

Penalties:

- If no insurance is offered: Employer must pay a penalty of $2,000 per employee, excluding the first 80 employees.
- If insurance is offered, but it is not deemed affordable for certain employees: The penalty is the lesser of $2,000 for every employee (after exempting the first 80) or $3,000 for every employee receiving a subsidy.

What It Means to Manufacturers

Manufacturers must provide insurance at an affordable rate to their employees or face a penalty. Previously, employers had the option of purchasing coverage, and more than 90 percent of NAM membership provided that benefit. However, the ACA increases burdens on employers by forcing them to either pay for coverage or a penalty, based on the number of employees, minus the first 80.

Reporting Requirements

What They Are

Employers will be required to report information to prove they are complying with the employer mandate and confirm employees' coverage status.

How They Work

Employers who offer minimum essential coverage must provide the government with information to ensure that the mandate is met. In addition, they must provide covered employees with their coverage information so that employees can prove that they met the requirements of the individual mandate. Employers who file more than 250 W-2 forms must provide information to employees about the general cost of coverage.

In 2015 employers who show a good faith effort to report will not be fined, even if there are omissions in the reporting. The fines will fully take effect in 2016.

What They Mean to Manufacturers

Manufacturers must provide insurance at an affordable rate to their employees or face a penalty. This will necessarily cause an increase in administrative burdens and costs. The NAM estimates that it will cost between $20 and $35 per employee to meet the reporting requirements. The IRS announced in 2013 that the employer mandate fine and reporting requirements are delayed from 2014 to 2015. A recent rule allowed for a consolidated form to simplify filing.

Exchanges

What They Are

Exchanges have been developed for the individual market, and states are designing Small Business Health Options Program (SHOP) exchanges to also assist small businesses with purchasing health insurance.

How They Work

The goal of state-based insurance exchanges was to improve competition and provide clarity by helping employers compare plans and select the best available option. Electronic enrollment in Federally Facilitated Exchange (FFE) SHOPs was delayed to 2015; however, some state-based exchanges are functional. Beginning in 2016, FFE SHOPs should open for employers with up to 100 full-time employees, if they would like to use them.

What They Mean to Manufacturers

SHOP exchanges are intended to be an opportunity for smaller fully insured manufacturers to have a greater choice and clearer options when choosing health care plans. The lack of a functional rollout, poor communication and inconsistency from states and the federal government has created uncertainty for future business decisions.

2016

Employer Mandate

What It Is

The employer mandate requires employers with more than 50 employees to provide coverage to 95 percent of their employees or face penalties and fines.

How It Works

If a firm with at least 50 full-time, or full-time equivalent, workers has a full-time employee who is getting a premium tax credit or a cost-sharing subsidy through an exchange, then that employer must pay a penalty for not offering that worker acceptable insurance on the job. Workers who are offered qualified coverage by an employer are ineligible for the new insurance subsidies provided in the exchanges.

The penalties increase each year to mirror the growth in insurance premiums. The penalty structure is the same as previously stated under 2015; however, in 2016, it changes from excluding the first 80 employees to excluding the first 30 employees for businesses with 100 or more employees and will apply to those who don't provide "affordable" coverage to 95 percent, up from 70 percent, of their employees. For those with 50 or fewer, it will also exclude the first 30 employees.

What It Means to Manufacturers

Manufacturers must provide insurance at an affordable rate to their employees or face a penalty. Previously, employers had the option of purchasing insurance, and more than 90 percent of NAM membership provided that benefit. However, now it is mandated, increasing burdens on employers.

2018

Tax on "Cadillac" Health Care Plans

What It Is

This is a tax on expensive, benefit-rich health care plans.

How It Works

The ACA imposes a 40 percent excise tax on high-cost health insurance plans, defined as $10,200 for an individual and $27,500 for a family. The tax will be levied on insurers and self-insured employers. The cost of plans subject to the tax will be indexed to inflation and adjusted for retired individuals 55 and older who are not eligible for Medicare, for employees engaged in high-risk professions and for firms that may have higher health care costs because of their workers' age or gender.

What It Means to Manufacturers

This tax may be of immediate concern to employers who offer benefit-rich plans to their employees. Although the average cost of employer-sponsored care is significantly lower than identified amounts, targets are adjusted according to rate inflation, not medical inflation. Historically, medical inflation increases at a much higher rate than the general inflation rate, which means that over time, "high-cost" plans will likely make the 40 percent tax the norm, instead of the outlier.

Provisions Effective in 2013

Medicare Tax on Wage Income

What It Is

This is a 0.9 percent surtax on wage income above $200,000 for individuals and $250,000 for couples.

What It Means to Manufacturers

Although this tax is targeted to individuals, small business owners filing as pass-through entities are affected. The tax is not indexed for inflation, so the number of businesses paying the tax will increase each year.

Medicare Tax on Investment Income

What It Is

This is an additional 3.8 percent Medicare tax on investment income.

What It Means to Manufacturers

Another tax targeted at individuals, this will also affect small businesses filing as subchapter S-corporations and other pass-through entities. The tax is not indexed for inflation, so the number of businesses paying the tax will increase each year.

Medical Device Excise Tax

What It Is

This is a tax on certain medical devices by a manufacturer or importer. A tax of 2.3 percent of the sale price is imposed on the devices and it is expected to raise about $30 billion in the first 10 years.

What It Means to Manufacturers

This industry-specific fee will stifle innovation and job growth in the medical device industry by eliminating resources without additional market gains. These fees will translate to higher health care costs for all manufacturers.

Employer Retiree Coverage Deduction

What It Is

This is an elimination of a tax deduction for employers that sponsor retiree health plans covering prescription medicines.

What It Means to Manufacturers

An employer's income tax liability and the cost of providing prescription drug coverage to retirees increase. How much an employer's tax liability will increase depends on the total subsidy amount and the employer's applicable corporate tax rate.

Flexible Spending Account (FSA) Funding Limits

What They Are

The 2010 health care law limited the maximum annual contribution that an employee can make to a health FSA to $2,500. The $2,500 limit will be indexed for cost-of-living adjustments for plan years beginning after December 31, 2013.

What They Mean to Manufacturers

Limiting the amount employees can contribute to FSAs will increase health care costs.