



REGIONAL UPDATE: NORTH AMERICA

Health Care Reform, Part 5

ISSUE 16

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In this column, for the last four issues, I have been summarizing the key issues in the healthcare reform laws (technically the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act) that were passed last year. There has been lots of discussion and debate around this topic since passage, particularly leading up to the November, 2010 mid-term elections. In this issue, I'd like to discuss some interesting minor points that have gotten attention in the discussions, note some of the surveys conducted since passage and make a few remarks on what's ahead.

Some Interesting Miscellaneous Provisions

As was widely reported with some amazement, the first new tax to become effective under the reform legislation was, believe it or not, the "suntan tax." This provision was added late in the negotiations, over the strenuous objections of the industry, which comprises 19,000 businesses, mostly owned by women, and employs 160,000 people in the US. These businesses were required to collect a special 10% tax beginning with the calendar quarter that ended October 31, 2010. Somewhat surprisingly, this provision alone is projected to bring the government \$2.7 billion in new revenue over the next ten years.

Everyone following the debate knows that children may now be carried on their parents' health plans until they reach age 26. What many do not know is that payments made by employer-sponsored plans to children under 27 are not taxable to the employee beginning immediately upon passage of the laws.

For the most part, Medicare is not affected by healthcare reform, but there is a provision, effective in 2013, that imposes additional Medicare taxes on high income individuals. In addition, in some circumstances, there is yet another tax imposed on investment income over certain thresholds.

The same year a new excise tax will be imposed on the manufacturers and distributors of most medical devices.

Some Interesting Survey Results

Needless to say, there has been a plethora of new surveys on virtually every aspect of healthcare since the passage of the legislation. While most indicate that companies and HR professionals are taking a “wait and see” position as they monitor ongoing congressional and regulatory discussions, the more sophisticated firms are already doing scenario planning based on alternative possibilities for implementation, modification or rescission of some or all of the laws’ provisions.

- The readers of *Human Resource Executive* reported that 44% of them are spending the majority of their time on health and retirement benefit issues and 58% said healthcare reform will have an extreme or significant impact on their HR organizations.
- The HR Policy Association released a white paper detailing CHRO concerns with healthcare reform based on the input of 300 company representatives. One issue that was highlighted was that most respondents believe the legislation starts us down a path that, within ten years, will result in healthcare no longer being primarily provided by employers. There was sharp disagreement within the group as to whether or not this is a good outcome for employees or employers.
- A survey of 3,700 executives conducted by Crain Corporation found that 52.5% strongly felt that it would be better for employers to continue to offer healthcare rather than default employees into the exchanges. This increased to 64.9% among employers with over 25,000 employees. Not surprisingly, only 17.7% strongly agreed that they understand all of the impacts of reform, and this increased to only 18% among those who identified themselves as responsible for the purchase or administration of benefits.
- In a survey of 459 companies by Fidelity’s benefits consulting group, 84% (Why not 100%?) said they were taking a closer look at their benefits packages in light of healthcare reform. 64% of respondents said they were not seriously considering dropping healthcare coverage, but 41% of small employers and 55% of large employers are considering implementing high-deductible, consumer-driven health plans as a response. Despite recent experience, 49% of small employers and only 25% of large employers expect their plan costs to increase significantly in the short term. In a confirmation of the obvious, Fidelity said in their analysis that, “There is a lot of confusion out there about the real impact of the health care legislation and the accompanying costs.”

The Road Ahead

Although there was much talk prior to the election about legislators pledged to repeal “ObamaCare,” there is clearly no chance of that in the current Congress. The Democratic Senate will not pass, and the President will not sign, any significant rollback or de-funding measures. The possibility of significant change arises, therefore, only if the Republicans have control of both houses and the President is defeated in 2012. It has been noted by many of the commentators that numerous Presidents have come back from lower popularity than Obama’s to win re-election.

Meanwhile, the provisions of the laws continue to come into effect and most states are already embarked on plans to set up their exchanges. Also, if the rules don't change, rescission of the laws means that Congress will be compelled to identify specific savings equal to those calculated from healthcare reform by the Congressional Budget Office; \$143 billion in the first ten years and, by some estimates, over \$1 trillion over twenty years. That's an imposing challenge even for the Tea Party Caucus.

Unfortunately, all of this means continued uncertainty for HR professionals and their business colleagues, at least until after the 2012 elections and likely beyond. Doing some scenario planning will help clarify the best and worst cases, but the most that practitioners can really do is to continue to implement the provisions as they become effective (see prior issues for timelines) and keep close tabs on developments via the media. We, of course, will keep you posted as we learn of significant developments.

P.S.: A totally unsolicited and un-compensated plug for the best overall explanation of healthcare structure and financing that I have found in all my research on this subject is by "Back of the Napkin Productions" and can be found at <http://www.slideshare.net/danroam/healthcare-napkins-all> .

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