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Obamacare penalties spawn 'skinny' plans

By: Brett Norman
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Employers heaved a sigh of relief when the Obama administration announced it would not enforce Obamacare's mandate that large companies provide insurance to their workers next year.

But some companies plan to offer "skinny plans" designed to duck the biggest penalties anyway, according to industry consultants. And the Obama administration has extended its blessing to this limited coverage, even though it would not protect individuals from medical bills that could cause financial ruin in the case of severe injury or illness.

The health law spells out in detail the comprehensive coverage that insurers have to provide on the new insurance marketplaces or exchanges. But it's nearly silent about what the employers who provide insurance to a majority of Americans need to include in their health plans.

"There are no rules on how good that coverage has to be," said Gretchen Young, senior vice president of health policy at the ERISA Industry Committee.

About 95 percent of large employers already offer health insurance. Most of them offer fairly comprehensive coverage, as good or better than the typical plans that will be offered on the exchanges.

That's not the case for many retailers, restaurant chains and the hospitality industry, which often rely on low-wage, part-time workers and offer few or no health benefits.

And those are the businesses that were most seriously affected by the employer mandate.

"There are particular employers in particular industries for whom the Affordable Care Act is a disaster," said Andy Anderson, who leads the health division at the law firm Morgan, Lewis & Bockius in Chicago. The Congressional Budget Office estimates the penalties would bring in $3.7 billion per year.

The health care law required employers with the equivalent of 50 or more full-time workers to provide health insurance or else pay a $2,000 per employee fine, starting in 2014. After intense lobbying from the business community, the Treasury Department announced earlier this month that the mandate won't take effect until 2015.

The penalty is a fraction of the roughly $8,000 it costs to provide an employee with comprehensive health insurance. But it would be a major new expense for large employers that don't pay for coverage now.

A firm with 2,500 employees would pay about $5 million in penalties each year.

But there's a second penalty that gets less attention. Large employers that don't provide robust, affordable insurance to their workers will pay a $3,000 penalty for each employee who gets taxpayer-funded subsidies on an exchange.

And there is a new type of insurance plan that is designed to protect employers from the first penalty and lower their exposure to the second. They are the skinny plans, a descendant of limited benefit — or "mini-med" — plans that are set to be phased out at the end of this year.

"Skinny alternatives are an attempt to manage liability for ACA penalties," said Neil Trautwein, employee benefits policy counsel at the National Retail Federation.

The idea is that far fewer employees will go to the exchanges if they have an affordable alternative in the workplace.

Unlike the plans sold through the exchanges, company-backed insurance does not have to cover the 10 categories of services in the health care law's essential health benefits.

There are a few standards, however.

Skinny plans will have to cover preventive services like vaccines and cancer screenings without any cost-sharing — a requirement of all insurance under the health law. They can't put a cap on annual benefits, as limited benefit, or mini-med, plans typically do now. But the lack of a cap is largely symbolic because the plans don't cover the services that run up medical bills.

They could offer very limited coverage of hospitalizations or surgeries, for instance, and a certain number of doctor office visits and a narrowly tailored prescription drug benefit. The premium for these plans would be around $100 a month, said Richard Stover, a principal in New Jersey-based Buck Consultants, who has clients that plan to offer skinny plans next year.

That will appeal to many employees who may not need extensive coverage and want an inexpensive way to meet the individual mandate. Under the law, anyone who has health insurance through an employer satisfies the mandate.

And those who want more comprehensive coverage can still go to the exchanges, where they may be eligible for subsidies depending on their income.

“That may be a better option for employees who need better coverage,” Stover said. For those employees who do receive subsidies on the exchange, their employers would have to pay a $3,000 penalty, but it’s likely to be a smaller subset of the workforce, Stover said.

The most likely group of employees to be offered skinny plans next year are those who work for employers that have mini-med plans now. About 1.4 million Americans had mini-med plans in 2010.

At least some of those who are offering mini-med coverage now, however, will likely follow through with their plans to help recruit new employees and keep those who are used to having a low-cost, low-coverage option available, said Tracy Watts, a partner in the Washington office of Mercer, a consulting firm.

“We are going to see some of these plans,” she said.

A Treasury Department official confirmed that properly designed skinny plans meet the requirements of the health care law.

But others who were planning to begin offering coverage for the first time next year because of the penalties now won’t, thanks to the mandate delay, said Anderson, who has clients who are considering the skinny plan option.

“That’s pretty much come to a screeching halt,” he said. The interest and planning will continue, he added, but now those firms are more likely to begin offering the plans in 2015, when the mandate takes effect, instead of 2014.