SHRM

Leading People.
Leading Organizations.

SOCIETY FOR HUMAN RESOURCE MANAGEMENT

Despite Penalty, 'Skinny' Health Plans Are Still an Option

"Non-minimum-value" plans seen as attractive for some employers

By Josie Martinez © EBS Capstone/UBA 2/24/2014

As the implications of health care reform become more apparent, large employers in the U.S. are increasingly grappling with coverage options to avoid the penalties.

A continuing issue concerns the problems that health care reform poses for the staffing industry and similar employers, as these companies may find themselves obligated to offer health coverage to relatively short-term and variable-hour employees.

Affordability Penalty Refresher

Under the Affordable Care Act (ACA), employer-provided coverage is considered "unaffordable" if it (1) costs more than 9.5 percent of the employee's W-2 wages, or (2) doesn't cover an average of 60 percent of the employee's medical expenses. Once the ACA employer mandate takes effect, if an employer with the equivalent of 50 or more full-time workers does not provide affordable coverage to full-time workers (based on a 30-hour work week), those workers can shop for insurance through a public exchange and may qualify for a federal premium subsidy or tax credit. An employer would face a penalty of $3,000 per each full-time worker who receives a subsidy/credit.

As described below, the affordability penalty is separate from the "pay or play" (or "shared responsibility") employer mandate to provide health coverage or pay a penalty of $2,000 per each full-time employee.

One option some employers are looking at is the offer of a "skinny" or non-minimum-value plan (also referred to as a “minimum essential coverage” or “MEC” plan) . This is a group health plan that provides medical care but may not satisfy the 60 percent minimum actuarial value threshold under the ACA, which mandates that plan participants pay no more than 40 percent of covered medical expenses.

Granted, if an employer offers a plan that is not minimum value, an employee may apply for a federal subsidy or tax credit for coverage purchased through a public health care exchange, and this could trigger a penalty of $3,000 per each full-time employee that receives a subsidy/credit. But this penalty would be lower than the penalty associated with not offering any health plan at all (the "play or pay" employer mandate's $2,000 penalty times every full-time employee).

Non-minimum-value plans are starting to make their way into the market for just this reason—as a viable alternative to staffing firms and other low-wage, high-turnover companies. At the end of the day, it allows employers to satisfy the ACA's "play or pay" coverage requirement and avoid the hefty penalty associated with that option. So, it minimizes the risk financially. Also, if employees accept the “skinny” plan, they will not themselves be penalized with the individual mandate's tax penalty currently in effect for not having coverage—in some respects, a win-win for both parties.

Skinny and Not-So-Skinny Choices

Some employers are using a modified version of this strategy. These employers offer employees two options: (1) a skinny plan, and (2) a richer option with a minimum actuarial value over 60 percent and a premium contribution cost that just barely meets the ACA's 9.5 percent wage threshold, which few low-income employees are expected to take because of the cost. This strategy enables employees to opt for the skinny plan that they can afford, while the offer of the richer option immunizes the employer from the "play or pay" penalties.

A third strategy is to simply offer the richer option and allow it to be unaffordable. For example, the plan could be offered on a fully contributory (i.e., employee pays all) or nearly fully contributory basis. This strategy avoids the “no offer” penalty, although the employer is still liable for the “unaffordable” penalty, but only with respect to those employees granted a premium subsidy or tax credit.

Keep in mind, these strategies are aggressive. There are those who argue that skinny plans will not provide sufficient coverage to satisfy the “minimum essential coverage” criteria, which under current regulations seems a possibility. Eventually, these plans may not pass muster, but for now there is nothing definitive against going this route.

Josie Martinez is a senior partner and legal counsel with EBS Capstone, a United Benefit Advisors (UBA) partner firm. Employers interested in finding out what health care strategies other companies are using may complete the UBA Benefit Opinion Survey. Respondents will receive a complimentary copy of the full national report of survey findings which will provide valuable data on what employers are actually doing (versus just talking about).