The Future of Health Care in a Politically Charged Climate

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November 15, 2012
The Future of Health Care After the Election

- The Supreme Court Decision
- The Election Results
- Buck Survey Results
- Short Term implications for Employers
- Long Term Implications for Employers
Health Care Reform Timeline – 2012 and Beyond

- Uniform summary of benefits and coverage (USBC) - effective for open enrollment periods beginning on or after September 23, 2012
- Summary of benefits and coverage (SBC) for 2012 tax year begins
- Additional plans with 3 or more independent review organizations
- ERISA funds exhausted
- Plans may begin to receive medical loss ratio (MLR) rebates

- Health Care FSA contributions capped at $2,500
- Retiree drug subsidy deduction ends
- Additional premium penalties for women must be covered at 100%
- Comparative effectiveness research tax fees must be paid
- Medicare Hospital insurance tax increased for high income filers
- Medicare tax applies to investment income of high income filers
- Excise tax on medical device manufacturers
- Employer notice of state insurance exchanges and premium credits
- 60-day advance notice of mid-year changes (Noti ce of Material Modification) required

Selected provisions for calendar-year plans – note effective dates may vary for non-calendar year plans

- 40% excise tax on high-cost insurance
- (Cadillac tax) established


Employer reporting of health insurance coverage

- Annual dollar limits prohibited on essential health benefits
- Pre-existing condition exclusions prohibited for all enrollees
- Child coverage to 26 even if eligible for other coverage
- Waiting periods over 90 days no longer permitted
- Coverage of routine patient costs in connection with clinical trials
- Limitations on maximum deductibles and out of pocket limits
- Plans may not discriminate against providers with respect to plan participation
- Auto enrollment required (effective date delayed)
- Individual/employer "shared responsibility" provisions effective
- State health insurance exchanges established
- Low income premium subsidy available for Exchange coverage
- HIPAA wellness incentives limits increased to 30%

States may open insurance exchanges to large employers

Part D “donut hole” filled

Provisions in blue apply only to new plans or plans that have lost grandfathered status.

For Information regarding 2010 and 2011 Health Care Reform
provisions see BuckConsultants. Information related to plans losing grandfathered status will need to satisfy some of these provisions.

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Rev: 7/9/2012
The Supreme Court’s decision
The decision

- Several lower court law suits wrapped into one
- Anti-Injunction act doesn’t apply
- Individual mandate upheld
- Medicaid expansion limited
The Election Results
Will the upcoming November elections affect your organization’s health care benefit strategy?

Summary:

<table>
<thead>
<tr>
<th>No</th>
<th>Choice</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No, we are moving ahead with our current strategy</td>
<td>49.9%</td>
</tr>
<tr>
<td>2</td>
<td>Yes, we are planning to implement only short-term requirements effective this year</td>
<td>17.5%</td>
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<tr>
<td>3</td>
<td>Yes, we aren't implementing anything until after the election is over</td>
<td>3.2%</td>
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<tr>
<td>4</td>
<td>Don't know yet</td>
<td>29.4%</td>
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</table>
Current state of affairs

- Health care costs continue to rise
- Cost remains a major concern for employers and individuals
- Views on the ACA in wake of Supreme Court decision evenly divided along party lines
- Could remain a highly charged issue in the upcoming elections
Political outlook

• ACA is the law of the land
• Prior to November elections
  – Implementation continues
  – Regulations proposed and finalized
  – Exchange implementation
  – Questions remain
  – Republicans will try to disrupt implementation
  – Votes for repeal
  – Hearings
  – Remains a campaign issue for both parties
# Health Care Reform

## How the politics could play out

<table>
<thead>
<tr>
<th>Election Outcome</th>
<th>Possible Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Pres: R</strong>&lt;br&gt; <strong>Senate: R</strong>&lt;br&gt; <strong>House: R</strong></td>
<td>• Repeal and/or replace likely&lt;br&gt; • Implementing slowed&lt;br&gt; • Less enforcement&lt;br&gt; • New agency leadership</td>
</tr>
<tr>
<td><strong>Pres: R</strong>&lt;br&gt; <strong>Senate: D</strong>&lt;br&gt; <strong>House: R</strong></td>
<td>• Repeal, replace, delay, defund&lt;br&gt; • Senate will be a road block&lt;br&gt; • New agency leadership</td>
</tr>
<tr>
<td><strong>Pres: R</strong>&lt;br&gt; <strong>Senate: D</strong>&lt;br&gt; <strong>House: D</strong></td>
<td>• New agency leadership&lt;br&gt; • Less enforcement&lt;br&gt; • Implementing slows</td>
</tr>
<tr>
<td><strong>Pres: D</strong>&lt;br&gt; <strong>Senate: R</strong>&lt;br&gt; <strong>House: R</strong></td>
<td>• Implementing continues&lt;br&gt; • Congress action to repeal/replace&lt;br&gt; • Technical corrections, legislation blocked&lt;br&gt; • Pres. veto&lt;br&gt; • Agency direction same</td>
</tr>
<tr>
<td><strong>Pres: D</strong>&lt;br&gt; <strong>Senate: D</strong>&lt;br&gt; <strong>House: D</strong></td>
<td>• Implementing continues&lt;br&gt; • Efforts in House to stall, defund&lt;br&gt; • Technical corrections, additional legislation blocked&lt;br&gt; • Agency direction same</td>
</tr>
</tbody>
</table>

- **Pres:** President
- **Senate:** Senate
- **House:** House
- **R:** Republican
- **D:** Democrat
Short-term Implications for employers
Which of the following ACA rules concerns your organization the most?

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<thead>
<tr>
<th>No</th>
<th>Choice</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Summary of Benefits and Coverage (SBC)</td>
<td>19.6%</td>
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<tr>
<td>2</td>
<td>Employer shared responsibility penalty</td>
<td>22.9%</td>
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<tr>
<td>3</td>
<td>Form W-2 reporting</td>
<td>9.3%</td>
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<tr>
<td>4</td>
<td>The high cost plan tax (Cadillac tax)</td>
<td>36.5%</td>
</tr>
<tr>
<td>5</td>
<td>Automatic enrollment</td>
<td>11.7%</td>
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</table>
Summary of benefits and coverage (SBC)

- Due first open enrollment period beginning on or after Sept. 23, 2012
- Jan. 1, 2013 for calendar year plans
- Required for all health plans (small and large employers)
- “Four” page standardized summary of health benefits
- SBC used for participants to understand and compare coverage option
- May be delivered by mail or electronically
- Content flexibility if plan terms can’t be reasonably described
- 60 day advance notice of material modifications to the SBC

✓ Begin preparing your SBCs now!
✓ Coordinate with enrollment and other vendors
Form W-2 reporting

- Informational reporting of aggregate cost of employer-sponsored health coverage
  - 2012 Form W-2 (issued January 2013)
  - Reportable cost based on December 31st information
  - Flexibility for terminated employees
  - Does not apply to employers issuing fewer than 250 Form W-2’s
  - Calculated using COBRA calculation methods
- Report medical coverage
  - Exemptions
    - HRA, EAPs, wellness, on-site clinics, multi-employer plans
- Special rule for health FSA
  - No reporting for salary reduction dollars

✓ Begin determining what coverage is reportable
✓ Coordinate with vendors
Health Care Reform

Medical loss ratio (MLR) rebates

- Rebates from insurance companies failing to meet 2011 MLR standards
  - Insurers required to pay 2011 rebates by August 2012
- MLR requires insurers to spend minimum percentage on medical claims and improving health care quality
  - 85% for large group market (more than 50 employees)
  - 80% for small and individual group market
- ERISA and IRC implications for rebates received by plan sponsor
- Insurers may seek employer data

✓ Determine if rebates are plan assets
✓ Use rebates for appropriate expenses
Health FSA limit

- Salary reduction amounts capped at $2,500
- Limit applied on plan year basis (not tax year)
- Effective for plan years beginning on or after January 1, 2013
- Cashable credits counted, but non-elective employer credits not counted

✓ Plan amendment due by December 31, 2014
Preventive services for women

- Non-grandfathered plans must cover preventive services without cost-sharing effective for plan years beginning on or after August 1, 2012
- Includes additional preventive care and screening
  - Target to unique needs of women
    - Well-woman visits
    - Gestational diabetes screening
    - Human Papillomavirus (HPV) DNA Testing
    - Annual counseling and screening for HIV and other sexually-transmitted diseases
    - FDA-approved contraception methods and counseling
    - Breast feeding support, supplies, and counseling
    - Domestic violence screening and counseling
- Certain religious employers exempted

☑ Review relevant plans to determine compliance
☑ Coordinate with vendors
Comparative effectiveness fees

- A temporary fee paid to the IRS to fund national research on clinical effectiveness of various medical treatment and services
- Generally, applies to:
  - Insured plans – fee paid by insurer
  - Self insured plans – fee paid by plan sponsor
- Doesn’t apply to HIPAA excepted benefit or most health FSAs
- Effective plan and policy years ending after September 30, 2012
- Amount of fee (paid by July 31st of the following calendar year)
  - $1 in 2012; $2 in 2013; indexed through 2018

- ✓ Determine fee amount required
- ✓ Consider increases in cost of coverage, administrative, and record keeping tasks
Exchange notice

- Notices provided to all employees about availability of coverage offered through Exchange (offered in 2014)
- No later than March 1, 2013 and include:
  - Description of exchange and services
  - Exchange contact information
  - If relevant, statement that employee may be eligible for premium tax credits and cost-sharing reductions
  - If relevant, statement that employees who purchase coverage through the exchange will lose employer contributions
- Guidance not yet issued

 ✔️ Compliance likely not necessary until guidance issued
 ✔️ Consider timing and distribution of notice
Long-term implications for employers
Design requirements for 2014

• All plans:
  – No annual dollar limits on essential health benefits
  – Coverage of all adult children to age 26, even if other coverage
  – Waiting periods 90 days or less
  – No pre-existing condition limitations
  – Auto enrollment (likely delayed)
  – Reporting of coverage info to participants and IRS (2014 reporting required in 2015)

• Non-grandfathered plans:
  – Maximum deductibles of $2,000 single / $4,000 family
  – Out-of-pockets limit capped at HSA levels
  – HIPAA wellness incentives increased from 20% to 30%
  – Coverage of routine patient costs for clinical trials
  – Provider non-discrimination requirements
New taxes

Additional taxes that will be paid either directly or indirectly by plan sponsors:

- Exchange reinsurance program tax of $25 billion that will apply to insured and self funded plans from 2014 to 2016
- Health insurance industry tax starting at $8 billion in 2014, that will apply to insured plans
- “Cadillac Plan” excise tax that starts in 2018

✓ Speak to your tax advisors
✓ Begin modeling to see if your plan will be subject to excise tax
Employer shared responsibility in 2014

Employers with 50 or more full-time employees must offer health coverage to their full-time employees and their dependents

- No minimum employer subsidy level required
- Penalty: $2,000 per full-time employee (excluding first 30) if no coverage offered and at least one employee gets Exchange subsidy

If coverage is not affordable or does not provide at least minimum value, employer can be assessed a penalty

- Coverage must be affordable – employee only contribution not greater than 9.5% of employee W-2 income
- Coverage must satisfy minimum value test – 60% value
- Penalty: $3,000 per full time employee who enrolls in Exchange coverage and receives an Exchange subsidy
Exchanges

Most states have yet to establish exchanges or pass enabling legislation

• Will all states create Exchanges?
• Federal government will establish exchange if state doesn’t
• Will the Exchanges be viable in 2014?
• Federal assistance available for all individuals with low incomes

State and Federal roles

• *States will:* establish enrollment process, make eligibility determinations, certify qualified health plans, notify employers of employee eligibility for subsidies
• *Federal government will:* issue more exchange guidance, provide funding, issue rules for navigators

✓ Stay informed about your state’s progress on establishing an exchange
Available coverage – putting the pieces together

Household income < 133%* FPL
- May be eligible for Medicaid; depending on State action with Medicaid expansion
- Or may choose employer plan if available

Household income between 133%* and 400% FPL
- Subsidy may be available: For a family of four income up to $92,200; Single employee $44,680
- If employer plan is not available eligible for subsidized exchange coverage
- If employer plan is available but not affordable or minimum value, eligible for subsidized exchange coverage

Household income > 400% FPL
- Eligible for unsubsidized exchange coverage
- Or may choose employer plan if available

* 138%, effectively due to required additional 5% for Medicaid eligibility calculation
What approach do you currently anticipate taking with active employee coverage in period 2014-2015?

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<tr>
<td>1</td>
<td>Drop employer-sponsored health care coverage</td>
<td>1.9%</td>
</tr>
<tr>
<td>2</td>
<td>Drop employer coverage and subsidize Exchange coverage</td>
<td>0.3%</td>
</tr>
<tr>
<td>3</td>
<td>Continue employer-sponsored health care coverage</td>
<td>68.7%</td>
</tr>
<tr>
<td>4</td>
<td>Still considering options</td>
<td>29.1%</td>
</tr>
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</table>
Employer strategies

Three broad health care strategies that employers should consider:

• Drop employer-sponsored health care coverage
• Drop employer coverage and subsidize Exchange coverage
• Continue employer-sponsored health care coverage

Strategies may differ by workforce segment

- What is your employee attraction and retention policy?
- What are your health care costs?
- What is your corporate philosophy towards being an employer of choice?
- What are your competitors doing?
- What are the administrative challenges?