

Employee Benefits Management

Directions

Issue No. 428 • Report No. 426

In Two Parts • September 16, 2008

Expert explains benefits-related effects of candidates' health care reform proposals



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As the presidential election draws near, the country is anticipating health care reform in 2009. Such reform will have a direct effect on employment-based health benefits. As such, employers and other plan sponsors need to be informed about the candidates' competing reform proposals. To learn about these proposals, **CCH**, a Wolters Kluwer business, interviewed Kaye Pestaina, J.D., Vice President and Senior Health Compliance Specialist in the Washington D.C. office of The Segal Company.

CCH: Will the presidential candidates' health care reform proposals have an impact on employee benefits?

Pestaina: Yes, both candidates' proposals would have a direct effect on health benefits provided by employers and other plan sponsors. The impact, however, would differ considerably because they have based their proposals on competing philosophies on how to reform the health care system. In a nutshell:

Senator John McCain's proposal is consistent with the Republicans' general commitment to making individuals rather than employers or government responsible for health care. Reforms would improve individuals' ability

to purchase health coverage on their own and keep it regardless of where or whether they work. The proposal centers on changing the tax code and encouraging the use of Health Savings Accounts (HSAs). The basic premise is that the current system's bias toward employer-sponsored coverage limits

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access and drives up costs. Coverage should be more readily available in the private insurance market where products can compete. McCain proposes a refundable tax credit of \$2,500 for individuals and \$5,000 for families to incentivize them to purchase health insurance. Although his proposal does not spell it out, the assumption is that he would eliminate the current income tax exclusion for employer-sponsored health coverage and replace it with the proposed tax credit.

Senator Barack Obama seeks to build on the current system of employer-sponsored health coverage by ensuring that affordable, high-quality health insurance is accessible to everyone. The premise is that all the players in the system, including employers, have a shared responsibility to meet this goal.

Universal systems would create public/private partnerships with the goal of providing affordable private health coverage. Individuals would still obtain health coverage largely through their employers. For those who do not have access to employer coverage (or public programs such as Medicaid and the State Children's Health Insurance Program [CHIP]), a public or nonprofit entity called the National Health Insurance Exchange would act as a clearinghouse where individuals could choose among private health insurance options. Coverage would be available through this clearinghouse regardless of health status. Subsidies would help those who could not afford coverage to purchase it. Under a pay or play requirement, employers that do not provide "meaningful coverage"

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would have to pay an assessment that would help finance this new exchange. Certain small employers would be exempt from this requirement.

CCH: On what reforms should plan sponsors focus?

Pestaina: The two main issues for employers are the elimination of the current income tax exclusion in the McCain plan and the imposition of a pay or play requirement in the Obama plan. The current tax exclusion for employer-based coverage is an incentive for employers to provide health coverage. Plan sponsors should evaluate closely any proposals to alter the current system. Some posit that eliminating the exclusion, even if a tax credit replaces it, would cause a large number of employers to stop providing health coverage and would not significantly reduce the number of uninsured. Although there is concern that the tax credit is not enough to pay for coverage and that employees would have few options for coverage, proponents of the McCain proposal argue that the tax exclusion itself amounts to \$200 billion in tax subsidies that could be put to better use in the health care system. They also argue that some employers will still provide coverage to attract workers and others will use the savings from not providing coverage to increase wages.

The pay or play requirement in the Obama plan seeks to increase the number of employers that contribute to the financing of health care, either through providing health benefits to employees or through paying an assessment to the government. The pay or play proposal is part of a universal structure under which most individuals would have some level of coverage. Obama argues that increased access to coverage would reduce the amount of uncompensated care in the system, which results in employers paying more for coverage. Critics of pay or play point to the potential for increased assessments on employers over time and argue that any increased

cost will be passed back to employees in the form of reduced wages or cutbacks in benefits. Whether employers will incur more costs under the pay or play requirement will depend on the standard developed for “meaningful” coverage as well as the amount employers will have to pay the government if they do not meet the “meaningful” standard. Any increased cost also would have to take into consideration employer savings from a reduction in uncompensated care as well as payments that employer plans would receive under Obama’s reinsurance plan. Under the reinsurance proposal, employers would receive direct payments from the federal government to pay for certain catastrophic coverage.

“For both candidates, reform will mean additional costs.”

CCH: Are there any areas where there is consensus?

Pestaina: Both candidates have similar goals when it comes to quality initiatives in health care. Both would dedicate federal funds to studying the comparative effectiveness of medical treatments. They emphasize the need for evidence-based care with the goal of establishing national standards for treatment. This would eliminate the overuse of medical services that have little value. They both agree about the need for payment and other incentives to improve care coordination and would make investments to encourage the increased use of electronic health information technology.

CCH: What do you expect to happen with health insurance reform in 2009?

Pestaina: This is impossible to predict. In the end, it will be about timing and priorities. The consensus seems to be that McCain or Obama must initiate any health care reform early in their administration if it is to happen at all. McCain may have the hurdle of working with what is expected to be a Demo-

cratic Congress. For Obama, the issue may involve reaching consensus with Congress on program details and where health care reform ranks in regards to other competing policy priorities. For both candidates, reform will mean additional costs, even if it is just in the short term. The issue is whether the resources are available, given the federal budget deficit, and whether there is a willingness to make the investment.

CCH: Other than the candidates' health care reform proposals, are there any other issues that will affect health benefits in 2009?

Pestaina: We expect the federal government to issue regulations under the new Genetic Information Nondiscrimination Act (GINA). This law places limits on receiving, requesting, using and disclosing genetic information. Regulations are expected to contain, among other things, more information about what is genetic information. Under GINA, genetic information includes family medical history. In addition to GINA, new Medicare Secondary Payer (MSP) data reporting requirements will require the disclosure of certain plan participant information to the Centers for Medicare and Medicaid Services (CMS) in order to identify situations where a group health plan is primary to Medicare. CMS is in the process of releasing information about the specific disclosure format, the reporting process and deadlines.

CCH: What should benefits professionals do to prepare for 2009?

Pestaina: A large number of constituencies will be evaluating any proposals that come out of the debate over health care reform. As the main providers of health care benefits, employers should also play an important role in this debate. Plan sponsors should start by reviewing the candidates’ proposals and assessing the impact on group health benefits. Plan sponsors can also inform the debate by seeking and assessing information about coverage and outcomes in their own plans. □