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Healthcare Reform in 2013: What Every Nonprofit Needs to Know

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Hosts: National Council of Nonprofits and the Forum of Regional Associations of Grantmakers

Presenter:
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Agenda

- Definition of “Small Employer”
- The Five Pillars of the Small Group Market
- The SHOP Exchange
- The Small Employer Tax Credit
- New Fees and Notice and Disclosure Requirements
  - Cost Increases & Administrative Burdens
- “Private” Exchanges

Definition of “Small Employer”

- Beginning in 2016, “small employer” will be defined as 1 to 100 employees
  - This means that a state’s small group insurance market will be defined as 1 to 100
- Congress decided to phase in this new definition by allowing states to elect to maintain their current definition of 1 (or 2) to 50 until 2016
  - Every state has elected to maintain its current definition of small group
- Why is this important?
  - Because if an employer currently employs, for example, 75 employees, this employer will be part of the state’s large group market
  - In 2016, however, this same employer will now be a part of the state’s small group market

Small Group Market Insurance Reforms: The Five Pillars

- PILLAR #1: “Essential Health Benefits”
  - Statute said all fully-insured small group plans must cover 10 enumerated *medical services*
    - Ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; and preventive and wellness services and chronic disease management
  - HHS gave states the ability to establish an “essential health benefits” benchmark plan
    - In general, the benchmark plan is the plan with the largest enrollment in the state’s small group market
    - In general, the benchmark plan will include the 10 enumerated medical services, but if a benchmark plan does not, HHS requires the state to add the benefit coverage
    - State mandated benefits in place as of 12/31/11 may be considered an “essential health benefit”

Small Group Market Insurance Reforms: The Five Pillars (cont'd.)

- PILLAR #2 : "Metal Levels" of Coverage
  - All fully-insured small group plans must meet a specified actuarial value (AV) +/- 2%
    - Bronze plan: 60% AV
    - Silver plan: 70% AV
    - Gold plan: 80% AV
    - Platinum plan: 90% AV
  - In its simplest form, AV is a measure of the co-insurance under the plan
    - For example, the insurance coverage pays for 60% of the cost of a covered benefit and the insured is responsible for paying for the remaining 40% of the cost

Small Group Market Insurance Reforms: The Five Pillars (cont'd.)

- PILLAR #3: Cost-Sharing Limitations
  - The aggregate amount spent on deductibles, co-payments, and co-insurance cannot exceed the maximum out-of-pocket limits for a high-deductible health plan defined under the health savings account ("HSA") rules for 2014
  - Small group plans must limit the annual deductible to no more than $2,000 for single coverage and $4,000 for family coverage
    - However, recent HHS guidance permits an insurance company to increase these deductible amounts if doing so would allow the plan to meet a specified AV
    - This new guidance gives insurance companies and small employers more flexibility in designing a plan

Small Group Market Insurance Reforms: The Five Pillars (cont'd.)

- PILLAR #4: Premium Rating Rules
  - Insurance companies are prohibited from setting premiums based on any employee's health status
  - Premium rates may only vary by:
    - Age (but by no more than a 3 to 1 ratio),
    - Tobacco use (but by no more than a 1.5 to 1 ratio),
    - Single or family coverage, and
    - Rating area.
- PILLAR #5: Risk Pooling
  - All employees of small employers in the small group market are treated as a single risk pool (pooled by insurance company) regardless of where coverage is obtained
    - In other words, health risks inside ***and*** outside of the SHOP Exchange will be pooled together (e.g., an individual that purchases a plan through the SHOP Exchange will be part of the same risk pool of an insurance company that sells a health plan to an individual outside of the Exchange)

The SHOP Exchange

- Beginning 2014, small employers (generally firms with 50 employees of less) may access the SHOP Exchange
  - Beginning in 2016, "small employer" will be defined as 1 to 100 employees
- According to the final Exchange regulations, small employers must be able to select a "level of coverage" (i.e., bronze, silver, gold, or platinum) from which their employees may choose a plan
- The final Exchange regulations also allow a SHOP Exchange to permit one or all of the following:
  - Allow employees to choose any plan offered in the SHOP at any level of coverage;
  - Allow employers to select specific levels of coverage from which an employee may choose a plan;
  - Allow employers to select specific plans from different levels of coverage from which an employee may choose a plan; or
  - Allow employers to select a single plan to offer employees
- HHS recently delayed the "employee choice" model for the Federal SHOP Exchange, although states can still offer the employee choice model if they choose to do so

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Small Employer Tax Credit for Health Insurance for 2013

- Currently, a small employer may receive a tax credit equal to 35% (25% for nonprofits) of the small employer's cost of health insurance for simply offering a fully-insured small group health plan
- Extremely important to know the eligibility requirements
  - First, the employer **must** contribute at least 50% of the cost of its employees' health insurance to claim the tax credit
  - Second, to claim the full credit, you **must** employ 10 or fewer "full-time equivalent" employees ("FTEs")
    - The tax credit amount phases out with each FTE that you employ, fully phasing out at 25 FTEs (i.e., if you employ more than 25 FTEs you are NOT eligible for the tax credit)
  - Third, to claim the full credit, you **must** have an average annual wages of $25,000 or less
    - The tax credit amount phases out as your annual wages increases (e.g., at $50,000 of wages, you are NOT eligible for the tax credit)

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Small Employer Tax Credit for Health Insurance for 2014 and Beyond

- Beginning in 2014, a small employer may receive a tax credit equal to 50% (35% for nonprofits) of the small employer's cost of health insurance
- Unlike the rules for 2013, the employer **must** purchase a "qualified health plan" through the SHOP Exchange to claim the tax credit
  - In other words, if an employer purchases a fully-insured small group health plan *outside* of the SHOP Exchange, the employer CANNOT claim the tax credit
- Otherwise, the same eligibility requirements apply
  - The employer **must** contribute at least 50% of the cost of its employees' health insurance
  - To claim full credit, you **must** employ 10 or fewer FTEs, phasing out at 25 FTEs
  - To claim the full credit, you **must** have an average annual wages of $25,000 or less, phasing out at $50,000 of annual wages
- IMPORTANT: The tax credit is ONLY available for 2 years
  - For example, if a nonprofit small employer claims the 35% tax credit in 2014 and 2015, this nonprofit small employer CANNOT claim the tax credit in 2016, even if the nonprofit small employer meets the requisite eligibility requirements

The "Premium Subsidies" Offered In the Individual Market

- GENERAL RULE: An individual is NOT eligible for subsidies offered through the "individual" market Exchange if he or she is "eligible" for employer-sponsored coverage
  - So, even if your employees are eligible based on income, they CANNOT go to the individual market Exchange and access the subsidies
- EXCEPTION: The employer-sponsored coverage (1) is "unaffordable" (i.e., the employee's contribution for the lowest cost for self-only plan exceeds 9.5% of the employee's household income) or (2) does NOT provide "minimum value" (i.e., the employer coverage does not pay for at least 60% of the benefits provided under the plan)
  - In this case, depending upon an employee's income, an employee may opt out of employer coverage, go to the individual Exchange, and access the subsidies

Cost Increases & Administrative Burdens

- It is important to understand that:
  - The five pillars of the small group market will increase the cost of plans, per the CBO
  - The annual "fee" on health insurance providers will increase premiums by 2% to 2.5% in 2016, according to JCT and CBO
  - "User fees" on insurance companies to fund the individual and SHOP Exchange will likely be passed through
    - HHS indicated that the "user fees" for the Federal Exchange would be 3.5% of the monthly premium in 2014 (user fees can now be spread among plans offered inside *and* outside of the Exchange, which may reduce the 3.5% fee)
  - A reinsurance assessment ($63 per head) is imposed on insurers that will likely be borne by the consumer

Cost Increases & Administrative Burdens (cont'd.)

- It is also important to understand the new notice and disclosure requirements
  - Reporting the cost of health coverage on the W-2 (unless transition relief is extended)
  - Summary of Benefits and Coverage ("SBCs") (effective now)
  - Reporting health coverage to (1) to the IRS and (2) employees and dependents (effective Jan. 1, 2014, but not due until Jan. 2015)
  - Exchange Notice (Fall 2013)

What Is a "Private" Exchange?

- At its core, a private exchange is a private business (typically operated by insurance brokers, benefit consultants, or insurers) that sells insurance products to health care consumers through an electronic platform
- What makes them unique is the ability to enable the health care consumer to shop among a wide-variety of major medical health plans and supplemental insurance products through the use of creative, interactive technology
- Private exchanges offer:
  - The use of defined contribution/fixed contribution funding for group health plans
  - Expanded choice
  - Decision support (e.g., "recommendation technology")
  - End-to-end transactional services

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Questions?

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