

How Affordable Care Act impacts union health benefits

Union health and welfare trusts press to take part in exchanges

Two year's after the passage of Patient Protection and Affordable Care Act (PPACA), unions are still coming to terms with what the law means for members.

Politically, the AFL-CIO is defending the law, touting its first-stage results, like the estimated 2.5 million young adults who now have coverage on their parents' insurance, and the 54 million insured Americans who've received preventive services at no cost. But there are also worries on the horizon — that the law may undermine incentives for employers to provide health coverage, and give a competitive advantage to nonunion employers.

Most union members obtain health insurance through their employers. Benefits are negotiated as part of their collective bargaining agreements. In some cases, large employers sponsor the insurance by themselves. In other cases, multiple employers band together in union-affiliated health and welfare trusts, often referred to as Taft-

Hartley plans.

The larger self-insured plans — and union employers like AT&T and Verizon — benefited from PPACA's temporary Early Retiree Reinsurance Program. For retirees 55 or older who weren't yet eligible for Medicare, once they incurred \$15,000 in health care claims in a plan year, the program reimbursed employers and trusts for 80 percent of health care claims beyond that, up to \$90,000. The program began June 1, 2011, and was supposed to last two years, but the \$5 billion appropriation was entirely committed by late fall 2011.

The Taft-Hartley union health and welfare plans were otherwise largely left out of PPACA.

Union health-and-welfare trusts were providing health insurance decades before the government insurance programs Medicare and Medicaid came along. Today, as many as 20 million union workers, retirees, and dependents get health insurance through union-affiliated multi-employer trusts, says Randy DeFrehn, executive director of the National Coordinating Committee for Multiemployer Plans (NCCMP).

When the state health insurance exchanges start in 2014, small employers will get tax credits for paying their em-

ployees' premiums. But small employers that provide insurance through union health and welfare trusts won't be able to get those tax credits. That's because the tax credits are only for insurance purchased on the exchanges. And for insurance to be sold on the exchanges, it must be open to everyone. The trusts don't fit into that system because they're neither insurers nor employers, strictly speaking; the trusts are more like jointly-run purchasing pools that self-insure or purchase group insurance plans.

"The way the exchange subsidy system works, the employers who've been doing the right thing for decades are now going to be at a competitive disadvantage," DeFrehn says.

DeFrehn's group has been pushing the Obama Administration to interpret the law in such a way that the trusts could take part in the exchange — so that participating small employers could also receive the tax credit. In August 2011, NCCMP submitted legal arguments showing how the Health and Human Services Department could do that. But DeFrehn said there's been no movement.

DeFrehn explains what's at stake. Union employers may pay upwards of \$1,200 a month per employee for family health coverage. If they see that their

employees can get comparable coverage on the exchange for \$400 a month, because of the subsidies, then terminating the health and welfare trust — and redirecting that \$1,200 — will start to make a lot of sense. That money could be used to raise wages, shore up pension plans, or make the employer more competitive.

Administration officials may be skeptical that unions and union employers will terminate the plans, DeFrehn said. "They think these plans mean too much to the employees, and in fact, they do. But when you're talking about a difference of \$5,000 per employee, it's a pretty clear economic decision."

Without the ability to benefit from the exchange, DeFrehn predicts many health and welfare trusts will be terminated, particularly in grocery, service,

and less-skilled construction trades, where wages are low enough that employees will get substantial subsidy in the exchanges.

In Portland, union leaders are already having that conversation. Cement Masons Local 555 Business Manager Brett Hinsley, a trustee on his union's health and welfare trust, says his employers pay \$6.75 an hour for health insurance, and costs have been going up 10 percent a year.

"Here's what we're afraid of," Hinsley explains. "If you don't let us buy into the exchange, our employers are going to say our people could actually get a better product if they go into the exchange as individuals. It's gotta be all or nothing. If we're going to have this system, we ought to be able to participate in the exchange."

... 'Obamacare' turns 2

(From Page 1)

wise-uninsured individuals purchase private health insurance or else pay a tax penalty. The constitutionality of the individual mandate is one of the questions the Supreme Court will rule on, likely in the next two months.

But the 2,400-page law has many other pieces. Some highlights:

INSURANCE REFORMS

- Insurers have to spend at least 80 percent of premium dollars on health care. In other words, no more than 20 percent can be spent on administration, advertising, CEO salaries, profits, and so on. For group policies, the figure is 85 percent.

- Insurers can no longer drop people from coverage when they get sick; nor can they refuse to insure children under 20 years old because of pre-existing conditions (or adults, starting in 2014); nor can they impose annual or lifetime claim limits.

- Insurers must allow children up to age 26 to be included on their parents' family coverage plans.

- All policies must pay for preventive medical services, such as immunizations, mammograms, and colonoscopies, with no co-payments, co-insurance, or deductibles.

MEDICAID EXPANSION

In 2014, Medicaid — the government health insurance program for the

poor — will expand to cover all those earning up to 133 percent of the federal poverty line. [That computes to about \$15,000 a year for an individual, or \$25,000 for a family of three.]

EMPLOYER INCENTIVES AND PENALTIES

Small employers that provide health insurance — particularly low-wage employers — get a tax credit reimbursing them for up to one-third or half of what they pay.

Large employers that *don't* provide health insurance, starting in 2014, will pay an annual penalty of somewhat less than \$2,000 per employee.

INSURANCE EXCHANGE

Starting in 2014, individuals who don't otherwise have health insurance will be required to buy it on state-based insurance exchanges, or face a tax penalty that starts at 1 percent of income and rises to 2.5 percent by 2016.

Individuals will get access to subsidies through the exchange, and those earning up to four times the poverty level will get some amount of subsidy. The subsidies cap the premium as a percentage of income and also help with co-pays and deductibles. For example, a family of four with an income of \$66,000 would pay a maximum premium of 9.5 percent of their income — \$524 a month — and would get up to \$1,500 in help paying for co-pays and deductibles.

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