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HEALTHCARE REFORM AND SMALL BUSINESS

Lee Insurance offers its perspectives on the immediate and intermediate effects of the new federal healthcare laws.



The healthcare-reform debate dominated headlines through much of 2009 and into 2010. What's clear to us is that the implementation of the new rules will be just as contentious and just as headline-grabbing as the political posturing was before its passage.

We've prepared this brief paper with highlights of what we believe will most likely affect you under the new federal mandates.

First, we would offer the following thoughts:

- The laws are changing but they will not rewrite the fundamental rules of business, just some of the built-in costs.
- There had been much talk last year about “employer mandates.” The new rules likely will require more paperwork and more oversight but only those companies with 50 or more employees will be penalized financially if they don't offer their workers affordable coverage.
- The laws are scheduled to go into effect over the next four years and those that will be implemented this fall/early next year are not drastic departures from existing rules. The bigger changes happen further out.
- It's hard to tell what exactly those changes will look like when – perhaps if – they are enacted.

Consider:

- The healthcare legislation itself was nearly 3,000 pages long! Imagine how long it will take – and how long the final product will be – for the federal agencies involved (primarily the U.S. Department of Health and Human Services and the Internal Revenue Service) to create all the rules and regulations designed to implement the new law.
- Congressional Republicans have vowed to fight implementation of the new laws and

there are elections this fall and in 2012 that could have long-term impacts on this new law.

- Attorneys general and other elected officials already have raised legal challenges to the legislation at the state level.
- Finally, there is the very real notion that real-world considerations will require changes to the ideas that sounded good in theory on Capitol Hill.

It may be helpful, then, to consider for now only those changes that will go into effect starting Oct. 1:

- **Adult children.** The first change requires group health plans to cover adult children until they are 26 if they aren't covered by another plan. The rule does not extend coverage to a child's spouse.
- **Pre-existing conditions.** Group-health plans may not limit coverage for pre-existing conditions for those less than 19 years nor may they arbitrarily rescind coverage except in the case of fraud.
- **CLASS Act.** Employers will have to let their employees know about those changes as well as the Community Living Assistance Services and Supports (CLASS) Act, a national long-term care/disability program that goes into effect Jan. 1, 2011. It is a voluntary program that employees may opt out of or choose to enroll in by way of payroll deduction. (The rates have yet to be finalized.)

• **Lifetime limits.** Plans may not impose lifetime limits on the dollar value of essential benefits. Annual-benefits (except for grandfathered individual plans) will be limited (but those rules have to be developed).

• **Preventive care.** Plans must cover the full cost of standard preventive care for infants, children, adolescents and women.

• **Over-the-counter drug reimbursement.** Over-the-counter (non-doctor-prescribed) medicines purchased after Dec. 31, 2010, are not eligible for reimbursement through Flexible Spending Accounts (FSAs), Healthcare Savings Accounts (HSAs) or Healthcare Reimbursement Arrangements (HRAs).

One bit of good news for small businesses is that there will be tax credits in 2010 designed to encourage employers either to offer healthcare coverage for the first time or, for those who already offer it, to extend that coverage. Companies that have 25 or fewer employees whose average annual income is \$50,000 or less are eligible.

This is important to note: Generally, business owners are not considered employees for purposes of the credit. Further, a family member* of any business's owners or partners is not considered an employee for purposes of the credit. Consequently, owners and family members don't count against the employee count or the average annual wages when figuring this credit.

* For this purpose, the Internal Revenue Service defines a family member as a child (or descendant of a child); a sibling or step-sibling; a parent; a step-parent; a niece or nephew; an aunt or uncle; or a direct in-law (e.g., son-in-law or brother-in-law).

IMPORTANT: This document is designed to provide a general overview of the new healthcare-reform law. It does NOT attempt to cover all of the law's provisions and should NOT be used as legal advice for implementation activities. We encourage you to seek any professional advice, including legal counsel, regarding how the new requirements will affect your specific plan.

Action to consider now:

- Prepare for 2011 enrollment changes (bulleted items on pages 2 and 3).
 - Meet with your accountant to ensure you are prepared to take advantage of the tax credit.
 - Call us at Lee Insurance if you have any questions.
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Eligible employers will get a maximum 35 percent credit on the premiums they pay for their workers. (The credit increases to 50 percent in 2014.) Here is a simple example: ABC Company has nine employees with average annual wages of \$23,000. ABC pays \$72,000 in healthcare premiums for those employees. ABC's healthcare credit for 2010 would be \$25,200 (0.35 x \$72,000).

Even though many of the other significant changes in the healthcare bill aren't scheduled to go into effect until 2012 or later, now is a good time to start prepare for increased reporting requirements that will arise in the meantime. For example, all employers will be required to report the combined value of company-paid healthcare benefits on every employee's W-2 for the 2011 tax/calendar year.

It is important to be aware of those later changes but, in light of all the challenges facing the implementation of such a sweeping mandate, we would suggest it doesn't make too much sense to spend too much energy contemplating all the what-ifs in the meantime.

In summary, know that we here at Lee Insurance are staying abreast of – among other relevant items – the federal healthcare law and how it will be implemented over the next several years; how insurance companies are responding to the law; and the development of state insurance exchanges. It is our mission to keep you ahead of the curve so that you know the best course of action for your business and your employees.