

A Year of Significant Change for Health Insurance

2014

by Robert Spicknall

Many are familiar with the Affordable Care Act provision that requires employers with fifty or more employees to provide health insurance. In 2013, this requirement was delayed from January 1, 2014, to January 1, 2015. This provision should have minimal impact on the Virginia legal community as most law firms of this size currently provide health insurance to their employees. A more significant requirement is for all individuals to have health insurance in 2014, or pay a fine equal to the greater of 1 percent of annual income or \$95. This fine will increase in 2015 and again in 2016.

Most importantly, the year 2014 brings health insurance changes to law firms with fewer than fifty employees and to sole practitioners.

For decades health insurance plans have been medically underwritten. In other words, the rates have been a function of the individual's or group's health history. In 2014, individuals and groups up to fifty employees will become community rated; there will no longer be a medically underwritten environment for fully insured health insurance products. Insurance companies will base their premiums on age, dependents' ages, where one resides, and smoker status. Insurance companies must discontinue asking about or basing health insurance rates on medical history. Ultimately, this will result in some no longer paying higher premiums and being penalized for having medical conditions. It will also result in people no longer being rewarded with lower premiums for being in good health.

One strategy we used for our clients during the fall of 2013 was an "early renewal-December 1, 2013 strategy." This allowed for a "healthy" group or individual to delay community rating and to maintain medically underwritten or "healthy" (lower) rates for most of 2014. On the December 1, 2014, renewal date, these people will be required to be community rated or begin receiving average rates.

A second strategy we offered and will continue to use in 2014 is to encourage "unhealthy"

individuals and groups with high rates to "re-enroll" in 2014 prior to their normal annual renewal date. The objective of this approach is to receive average rates from the community rated approach sooner rather than maintaining high rates from their medically underwritten plans.

As the administrator for the Virginia State Bar Insurance Plans (health, life, and disability insurance) and broker/agent for many law firms and individuals, we will continue to search for the best way to deliver health insurance. In 2014 we will likely see some health insurance companies begin to offer "self-funding" to law firms with as few as ten or twenty-five employees. Historically, self-funding for health insurance has only been available to law firms with at least 200 employees. A group can be self-funded and also limit its liability or the amount of risk it assumes with proper "specific and aggregate stop loss" claims protection. The importance of this "self-funding" approach is that a group that is self-funded is not technically fully insured. An insurance company may medically underwrite a self-funded group and offer lower premiums to groups they deem healthy or of good risk. This approach may enable a "healthy" law firm with at least ten to twenty-five employees to avoid higher rates associated with community rating.



Robert Spicknall is president of the Virginia State Bar Members' Insurance Center. VSBMIC is an affiliate of Digital Benefit Advisors and is endorsed by the Virginia State Bar.