Ten Lessons from Health Care Reform

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by Robert H. Spicknall

For more than twenty years my colleagues and I have assisted law firms and sole practitioners with their health insurance, serving as their broker or agent. This year brought many changes to health insurance as the health care reform provisions became effective. So what have sole practitioners and small and medium sized law firms learned from this changing health insurance environment?

Health Insurance Premiums Fluctuate Greatly in 2014; Underwriting Changes

Perhaps the biggest health care reform change was the implementation of community rating at the group's or individual's 2014 renewal date. Under the community rated system, insurance companies base rates on age and geographic location. Medical questions may no longer be asked, with the exception of smoking status (smokers can pay 50 percent more). No longer will groups with fewer than fifty employees, and individuals, be rewarded by receiving lower rates from their favorable claims and medical histories. Likewise, no longer will any person or group be penalized or charged a higher premium for adverse claims or medical conditions. Community rating resulted in premium reductions for some. However, for the majority it resulted in increased premiums.

Open Enrollment Period

Many are familiar with the open enrollment period that lasted from October 1, 2013, through March 31, 2014. Only those individuals qualifying with a special event (such as loss of health insurance, birth) can get individual coverage after March 31. The next open enrollment period for individuals will be from November 15, 2014, through February 15, 2015.

Groups of two or more employees can get coverage the first of any month.

Exchange
The federal government's highly publicized exchange, healthcare.gov, was the mechanism people used to enroll in health insurance to receive subsidized premiums from the federal government. Anyone earning up to 400 percent of the poverty line — up to $45,960 for individuals and $94,200 for a family of four — could receive a subsidy based on income. A June 2014 federal report noted that 87 percent of the people enrolled in the exchange received a subsidy. Many of those not eligible for a subsidy experienced delays in attempting to enroll. In retrospect, they would have been better off obtaining coverage directly through an agent or broker than enrolling through the exchange since they were not eligible for a subsidy.

No One Health Insurance Company or Product is the Answer
It is best to evaluate a variety of products from a variety of health insurance companies through an independent broker. Typically, individual and groups up to fifty do not pay any additional premium by receiving a broker's assistance.

One thing that hasn't changed is the criteria that should be used to evaluate health insurance options. First, examine the benefits, or what services are covered. Second, the premium or cost is always important. Finally, the provider availability must not be overlooked. One should ask, "Are my physicians and hospitals in the network?"

Many law firms have abandoned a "one size fits all" approach to health insurance and are offering a choice of two or three products to employees. Stereotypically, the staff may desire a traditional copayment plan while partners may opt for the tax advantages associated with the high deductible/health savings account approach.

Health Savings Account Approach Grows in Popularity
The health savings account approach is a combination of two things. If, and only if, one selects a qualified high deductible plan, then one may contribute to a health savings account, which is an IRA-like account for health care. In the past, this has appealed to those who consider themselves healthy and without large foreseeable medical expenses. It has also appealed to those in the higher tax brackets, and to those who desire to pay for out-of-pocket medical expenses with pretax dollars.

In 2014, many healthy people with relatively low rates are disgruntled with community rating and now have to pay higher premiums. Therefore, today more than ever, people are considering this health savings account approach.

Establish a Group Plan or Purchase Individual Coverage?
In the past we sometimes suggested that a small law firm have people purchase coverage individually rather than have a small group health insurance plan. This was because when health insurance was medically underwritten the entire small group would be penalized and everyone would receive high rates due to one individual's adverse medical situation. By breaking the group into components, only one employee would receive high rates due to his medical history and the rest of the firm would receive low rates. Sometimes it made sense to even break up a family's coverage by getting separate policies and have the remainder of the family receive low rates. Today this strategy of isolating the high risk is no longer necessary or justified as rates are no longer based on health conditions.

In fact, small firms may be better served by establishing a group product rather than having everyone get their own individual policy. In general, wider spectrums of products, including more generous benefits, are available with group products. Also, greater provider availability sometimes exists in group health insurance products than in

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individual policies. Therefore, we are starting to see small firms discard their "every attorney for himself" health insurance philosophy and return to a group health insurance approach. Finally, there are tax advantages to sponsoring a group health plan and deducting the premium for employees as a business expense.

Conversely, the drawback to maintaining a group health insurance plan is that lower-paid individuals become prohibited from receiving a subsidy from an individual policy through the government exchange.

Self-funding Is an Option for Very Healthy Groups to Consider

Some "healthy" law firms will consider self-funding or an alternate funding arrangement as opposed to accepting a fully-insured health insurance product with community rates. Law firms with very few medical conditions may seek to pay less than they ordinarily would with today's fully insured community rated products. Under the self-funding approach, a law firm with as few as five or ten employees may eventually have a portion of its premium returned if it incurs minimal claims, in addition to receiving lower rates.

Frustration Galore

Despite the media devoting much attention to health care reform, many are still unaware of how the changes in the law will impact their health insurance. Most of the media's focus was on large corporations, with little emphasis given to smaller employers. Since 2010, I have worked to inform my clients and the Virginia State Bar membership with my papers (found in the Resource Center of www.vsbmic.com) and through my many conversations (877-214-5239). With an understanding of the changes, people will make informed selections. My goal is to simplify the complicated and limit your frustration. The complication and frustration extends to the insurance companies in their attempts to comply with the changing law in a timely manner. A knowledgeable broker can lessen this frustration and offer a variety of alternatives without increasing the cost of health insurance.

Will Health Insurance Company Service Improve?

In recent years, health insurance companies have had to digest the changes associated with Health Care Reform and modify their products in a timely manner. They have been overwhelmed in their attempts to provide customer service and this has resulted in longer wait times for consumers who call and receive inconsistent answers. Health insurance company service will continue to be challenged by health care reform's medical loss ratio provision, which was effective several years ago mandating that health insurance companies pay 80 to 85 cents in claims on every premium dollar received. With the remaining 15 to 20 cents they must run their business, pay employees, and produce profit for shareholders. As a more highly regulated industry, health insurance companies will need to make the most of their operational and customer service expenses, and may seek to limit their expenses to increase profits.

Health Insurance Challenges to Continue

Most employee benefit specialists would agree that despite all the changes to the health insurance industry, health insurance premiums are expected to increase in the foreseeable future. With health insurance claiming a larger portion of most budgets, the need to review and evaluate various options becomes increasingly important.

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.