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URGENT NEWS FLASH!!!!

EMPLOYERS AND PLANS COVERING RETIREES: LINE UP FOR A GOVERNMENT WINDFALL...SUBSIDIES AVAILABLE UNDER THE HEALTH CARE REFORM BILL

SO HEALTH CARE REFORM HAS FINALLY PASSED! Yet, missed amongst the clamor surrounding, “political partisanship”, “the funding of abortion” or “the Cadillac tax” there is a significant subsidy that may provide relief to plan sponsors struggling to reign in retiree healthcare costs. This provision, referenced as the “Reinsurance Program”, creates a “reinsurance” subsidy for plan sponsors of retiree health plans providing coverage for pre- Medicare retirees over the age of 55.

The Medicare Modernization Act of 2003 created an employer subsidy program (“Retiree Drug Subsidy” or “RDS”) for plan sponsors as an incentive to maintain their retiree drug plans in lieu of dropping the coverage and forcing retirees to a Medicare Part D plan. The Reinsurance Program appears to provide employers a similar incentive. The incentive under this program would be for employer groups to maintain the medical plans for their pre- Medicare eligible retirees in return for a significant subsidy.

The Reinsurance Program appears to be a political “thank you” to labor unions supporting Mr. Obama during his Presidential campaign. The Reinsurance Program will clearly benefit employers and industries that are saddled with rich and expensive retiree medical plans. I suspect labor was hoping this “subsidy” would help slow the assault of employers slashing or eliminating rich benefit plans as pressures of the economic recession mount. As is the case often in Washington, provisions within a bill and policies from prior administrations often contradict one another. The reinsurance subsidy, like the Retiree Subsidy before it, was policy intended to keep employers from eliminating their “retiree” health care plans. The idea, make the plans less expensive so that these retirees stay on employer plans as opposed to ending up on Medicare, Medicaid or the new “Exchange-Based” plans. However, as the health care reform bill was influenced by so many special interests, some of it’s final provisions work contrary to this legislative intent. In particular, both the “Cadillac tax” and the tax on for-profit corporations on the retiree drug subsidy both increase the cost of maintaining retiree plans. The so-named Cadillac tax imposes a 40% excise tax on plans with premium costs exceeding pre-established “threshold amounts” and the tax on the drug subsidy eliminates a loophole that added to the attraction of keeping retiree drug plans intact by employers. Both taxes would increase plan costs for many of the same plans eligible for the reinsurance subsidy. For plan sponsors with a considerable retiree population the effect is that the reinsurance subsidy may be neutralized by these other taxes.

The Calculation

The proposed program would establish a “temporary” Reinsurance Program for employers who provide health insurance coverage to retirees over the age of 55 and who are NOT yet eligible for Medicare. The program would reimburse employers or insurers for 80% of retiree claims between \$15,000 and \$90,000.

What are the Potential Savings?

Let’s look at a sample employer group with 700 employees and 500 retirees which spend \$10,000,000 a year on their health insurance plans. Let’s say that \$5,000,000 represents the retiree plan costs and \$3,000,000 of the \$5,000,000 is attributed to the pre-65 or pre-Medicare retirees. The employer would need to determine, at the individual level, how much of the \$3,000,000 in claims were incurred within the “claim range” of \$15,000 and \$90,000. If 30% of the claims fell within this range (or \$900,000); this group could be eligible for a \$720,000 subsidy, effectively reducing its retiree plan costs by 14.4%.

Employers would no doubt rely on their insurance carrier or third-party administrator to identify the “individual level”.

How Will This Reinsurance Program Work?

As with any legislation, the concept is defined but the wording to implement or administer the program is vague. Details will emerge later; therefore, the true economic benefit will be difficult to determine until that time. Once bureaucrats take this language and build a program around it, they will be constrained by a budget and will be given the statutory freedom to take legal liberties to dilute the subsidy's economic value.

How might this be accomplished? If we can learn any lessons from the Retiree Drug Subsidy ("RDS") program, where initially the drug subsidy was to be calculated as a percentage on ALL prescription drug claims incurred by plan sponsors, there will likely be a segment within the government that will push to dilute and reduce the category of "eligible" claims in the final calculation. The RDS formula was initially relatively simple until there was a bureaucratic decision to create "excluded" drug classes from subsidy eligibility. CMS' rationale behind this change was to NOT pay subsidy on drugs that were excluded under the government sponsored Part D drug plan formulary. I could see a similar rationale used to create "excluded" medical expenses to align subsidy eligibility with only medical procedures approved and part of the government's baseline plans as defined within the final bill.

Moreover, the language within the two bills is unclear as to "who" gets the subsidy. The Senate bill states "...the program will reimburse employers or insurers" whereas the House bill only references "employers." Moreover, the language in both bills state explicitly that "payments from the Reinsurance Program will be used to lower the costs for *enrollees* in the employer plan". What can we interpret from this language? Can the subsidy only reduce the retiree's share of premiums? What if a retiree does NOT share in any premium costs today? Will the employer not be eligible for subsidy? Will insurance carriers be able to create insurance plans for employer groups and keep the subsidy and then lower premium costs just as they do now under Medicare Advantage? Will certain employer groups be denied access to this subsidy?

How Long Will This Program Last?

The subsidy is "temporary", as the Bill appropriates only \$5 billion to fund this program through January 1, 2014.

My quick math shows that the monies earmarked for this program could run out quickly. The 2006 PEW Center¹ Study reported significant un-funded retiree healthcare liabilities for state and local governments alone. State systems are projected to payout \$9.7 billion for "other post employment benefits". The 30 year retiree healthcare liability was projected to be \$381 billion; a conservative estimate since these figures do not include obligations for teachers or local government workers. The State of California, combined with all local governments within California, was projected to have a \$6 billion retiree healthcare bill in 2009. Add to this all the large Taft Hartley plans, independent VEBA plans (i.e. the UAW VEBA) and the remaining large private sector retiree plans, one can see this earmark evaporating in a short period of time.

This begs the question. How will priority be established if the government agency in charge of managing this program is inundated with applications? Will it be first come, first serve? Will there be some level of "need" established to assign priority or create qualification? Or will this program, once Health Care Reform passes, become another entitlement program that is legislated into permanency?

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