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The Center for Association Leadership

The Affordable Care Act and Issues of Note for Associations

With the reelection of President Obama and the decision of the Supreme Court in *Sebelius v. NFIB*, the major provisions of the Patient Protection and Affordable Care Act (ACA) withheld challenge and have now moved into the implementation stage. For associations of all types, how these provisions move from paper to the real world have real-life consequences. According to ASAE's Compensation & Benefits survey, the average association saw its health care costs rise 11% in 2010, making it one of the largest operating costs for our community, especially for small associations. The following provisions are key components of the ACA that associations will need to monitor as they likely will impact their business model:

The Employer Mandate/"Shared Responsibility" Provision: Beginning in 2014, employers with over 50 full time employees and "full-time equivalents" (FTEs) will be responsible for providing insurance coverage to their employees. The Obama Administration is currently accepting comments on proposed regulations for how an employer can define FTEs, but the ACA broadly defines someone as full time if they work at least 30 hours a week. Employers of this size that do not provide "credible insurance" (i.e., a plan that meets the minimal cost and coverage requirements contained in the ACA) will pay a fine. Additionally, if the insurance offered proves to be financially onerous for even one employee (defined roughly as the cost equaling or exceeding 10% of their income), the employer may be fined as if they did not offer insurance at all and the employee would be free to shop elsewhere for coverage.

State-based Insurance Exchanges: Eighteen states and the District of Columbia have informed the federal government that they will establish their own health care Exchanges prior to 2014. The Exchanges will be large insurance pools where individuals and small businesses can shop for the most affordable health care plan available to them (similar to how Expedia allows travelers to shop for hotel and flight deals). The logistics of establishing these insurance marketplaces in less than a year, however, will be of interest to associations in these states. Things such as structure, provider participation, and cost sharing could all determine the success or failure of this important part of the ACA.

Federally Run/Partnership Exchanges: Those states that opt not to create and run their own Exchanges will either partner with the federal government to create an Exchange or have the feds create an Exchange in their state. What a federal Exchange will look like, whether it will be "one size fits all", and how it will be paid for are all additional factors that have yet to be announced by the Department of Health and Human Services. What little guidance they have released says that federal Exchanges will contract with any eligible health plans that meet minimum standards as well as allow Navigator programs to have a role for agents and brokers.

Changes to Employer-Provided Insurance Costs: Employer-provided health plans have already seen some mandated changes to their policies, including extension of dependent coverage to young adults ages 26 and under. However, new fees will begin to be applied to high-income earners' paychecks. For example, beginning this year, individuals making over $200,000 (and joint filers over $250,000) will see their Medicare hospital tax increase by 0.9% (currently 1.45% of paycheck). Additionally, beginning in 2018 insurance plans valued at over $10,200 for individual coverage and $27,500 for family policies (so-called "Cadillac plans") will be subject to a 40% excise tax. That tax will be levied on insurers and the self-insured, but there is a real possibility the cost will be passed on to the insured. Additionally, as costs continue to rise for coverage, employers may still see the kind of rate hikes they saw pre-ACA. In California this year, some small employers are anticipating an insurance rate hike of 30% or more as the state does not have a rate review process that many other states do to prevent sudden insurance hikes.

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