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POLICY NOTE

The Impact of the National Health Care Law on Businesses in Washington State

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"We have to pass the bill so you can find out what's in it..."
Speaker Nancy Pelosi, March 9, 2010

Introduction

After fourteen months of debate, and with narrow partisan support and substantial bipartisan opposition in Congress, President Obama signed major health care reform legislation into law. Polls consistently show the President's health plan is unpopular with the public. At no point in the history of the United States has such broad, wide-sweeping social legislation become law by such a slim political margin.

From now on, the federal government will manage the health care of all Washingtonians. The national health law will affect every person in Washington state, but will have specific consequences for employers. This paper, part of a series from Washington Policy Center, examines the new law's impact on businesses.

Washington state has about 193,000 small businesses with less than 20 full time employees, 14,000 moderate-sized companies with 20 to 50 employees, and 8,800 larger firms with more than 50 employees. These companies employ a total of more than 2.8 million people.[1] Although the health care law will affect different groups of workers differently, it does impose some common rules and regulations on all employers. The law will be phased in, and will be fully implemented by 2018.

Impacts on Business

Starting in 2010, all employer-sponsored group plans must cover employees' adult children up to age 26. Employer plans may not exclude children up to age 19 for pre-existing medical conditions and they must cover preventive care. Small businesses with fewer than 25 employees may qualify for federal subsidy grants if they offer a wellness program.

Phase I of an employer tax credit will begin in 2010. If a small business pays 50% of the total health insurance premium cost for employees, that company may qualify for a tax credit up to 50% of the premium cost. Basically, the smaller the business, the larger the tax credit it could receive. For companies with fewer

[1] "Number of Firms and Employment, by Size of Firm," Labor Market and Economic Analysis, Washington Department of Employment Security, September 18, 2009, at www.workforceexplorer.com/admin/uploadedPublications/9944_1Q09_SizeofFirm.xls.

than ten workers and an average per-employee wage of under $25,000 a year, the tax credit will be 50%.

For businesses with fewer than 25 workers and an average per-employee wage of less than $50,000 a year, the tax credit will be a graduated amount from zero up to 50% of the cost of health premiums. The business owner cannot count himself or family members when calculating the amount of the tax credit. Employers with more than 25 workers will not be eligible to receive health care tax credits.

The national health care law targets the tanning services industry with a 10% excise tax that starts in 2010. Tanning salons will collect the tax from customers and send it to the U.S. treasury, so the tax will function like a federal sales taxes.

In 2011, all employers will be required to enroll their employees in a new national long-term care program. The details are yet to be worked out, but presumably the funding of this program will function like Social Security and Medicare and be based on a payroll tax. Although employers will be mandated to enroll workers, employees may opt out if they so choose.

In 2011, the new law will require all employers to report the value of employee health benefits on workers' yearly individual W-2 forms. The IRS will maintain a record of every American's health insurance coverage. For individuals, failure to maintain government-acceptable health coverage will be a violation of federal law.

In 2011, the health care law imposes a new excise tax on insurance companies. Although these taxes can be passed on to plan purchasers, the magnitude of the tax and the companies' ability to remain competitive will require insurers to absorb the majority of this tax.

In 2012, all employers who offer health benefits must start filing reports to the Secretary of the Department of Health and Human Services. These reports must show the company is meeting healthy outcomes and prevention targets for workers, and that medical errors are being reduced. Employers will be required to submit details of their health insurance coverage to guarantee they meet federally-mandated requirements. Failure to report government-acceptable coverage is a violation of law and subjects the employer to federal penalties.

In 2012, pharmaceutical manufacturers will be required to pay a new excise tax. This industry is not large in Washington state, although the tax may affect retail prices Washington residents pay for prescription drugs.

New Medicare taxes begin in 2013. The Medicare tax on income will go up 0.9% a year on wages over $200,000 for individuals and $250,000 for married couples. These same taxpayers will also be required to pay a new 3.8% tax on "unearned" income, marking the first time a payroll tax will be applied to non-wage income.

Unearned income will include dividends, capital gains, profits from home sales and rental income. Many business owners in Washington state are in this income bracket and will be subject to the new tax. The earning threshold is not indexed for inflation, so the number of individuals and families hit by this tax will increase each year, as has happened in recent years with the federal Alternative Minimum Tax (AMT).

In 2013, the national health care law will end the tax deduction employers receive for Medicare Part D retiree drug subsidy payments. Federal accounting rules require that businesses immediately write-down the cost of ending this deduction, resulting in significant losses in company value. In 2010 The Boeing Company announced a $150 million charge.[2] Other companies that have announced similar losses to date include:

The National Health Care Law's Drug Coverage Tax Deduction Losses:	
AT&T	$1 billion
Caterpillar, Inc	$100 million
Deere & Co	$150 million
Verizon	$970 million
3-M Company	$90 million
AK Steel Holding Corp	$31 million
Honeywell	$42 million

About one-third of large U.S. companies, including many in Washington, offer the benefit to their employees and retirees. Nationwide an estimated 6.3 million retirees receive drug benefits from their former employers, and are reportedly at risk of losing coverage because of this tax change. The average subsidy amounts to about $665 per plan member.

If employers choose to stop offering the drug benefit in order to reduce costs associated with the national health care law, estimates show 1.5 to 2 million retirees will lose their employer-sponsored coverage and be forced into Medicare, an outcome that works against President Obama's promise that no one who wanted to keep their health coverage would lose it under his plan.

Starting in 2013, Medical device manufacturers will have to pay an excise tax of 2.9% on the value of their products. This tax will either be passed on to consumers or will be taken out of company research and development budgets. Massachusetts, home to many medical device makers, will be particularly hard hit, and Minnesota-based Medtronic company reports the tax on medical devices could cost the company up to 1,000 jobs.[3]

Phase II of the employer mandate begins in 2014. For larger companies with more than 200 workers, all employees must be automatically enrolled in a health insurance plan. Workers may individually opt out of the employer plan, however.

Federally-mandated, state-based insurance exchanges will begin in 2014. The exchanges will act as an insurance broker, connecting consumers with health coverage. These will not function as open markets, however, because prices and benefit levels will be set by the federal government.

Individuals and families earning up to 400% of the federal poverty level ($88,000 for a family of four today and $96,000 for that same family in 2016) can receive federal subsidies for the purchase of health insurance in the state-based exchanges. Employers with fewer than 100 workers will also be allowed to purchase health insurance through the exchanges.

Employers with more than 50 employees will pay a fine of $3,000 for every worker who receives a government subsidy. These same employers will face a fine

[2] "Boeing, Lockheed Expect Health-Care Charges," by Doug Cameron and Bob Tita, *The Wall Street Journal*, March 31, 2010, at www.online.wsj.com/article/SB10001424052702304252704575155613728130190.html.

[3] "Device makers react to healthcare reform bill's excise tax," by MassDevice staff, MassDevice, March 23, 2010, at www.massdevice.com/news/update-device-makers-react-healthcare-reform-bills-excise-tax.

of $2,000 for every worker if the business owner does not offer a health insurance plan.

As an example of how this will work in practice, the owners of a firm with 100 employees which does not offer government-approved coverage and has at least one employee eligible for subsidized coverage will pay a penalty of $140,000 a year to the federal government. The owners of the same firm which *does* offer government-approved coverage to its employees will pay a penalty of $3,000 a year for each employee who is eligible for subsidized coverage.[4]

By 2014, all health plans must comply with a federally-mandated minimum benefit package. Federal officials have not yet determined what level of benefits will be required to meet the government-set minimum.

More taxes will be imposed on drug manufacturers ($3.5 billion) and on private insurance companies ($13.9 billion) starting in 2017. These taxes will be followed by a $4.2 billion tax on pharmaceutical companies and a $14.3 billion tax on insurers starting in 2018. Drug companies will have an additional tax of $2.8 billion imposed in 2019.

Starting in 2018 a 40% excise tax will be placed on high-value health insurance plans, $10,200 and $27,500 for individuals and families respectively.

Policy Analysis

Businesses and employment in Washington state will suffer as a result of the national health care law. Employers of all sizes will experience a greater regulatory burden, more government-mandated paper work, fewer choices in health plans for their employees, and no mechanism to control costs. These provisions will have a severe negative impact on employment. Researchers at Suffolk University's Beacon Hill Institute found that national health care reform as proposed by President Obama would "destroy a total of 120,000 to 700,000 jobs by 2019."[5]

Employers now offer health benefits as a marketing tool to attract the best workers, or because of a moral commitment based on 65 years of employer-sponsored health care in this country.

The landscape has changed dramatically with the passage of the national health care law, however. Employers faced with escalating costs and more government regulations will be forced to make an economic decision regarding company-provided health benefits for workers.

In many cases paying the fine, or tax, for not offering health insurance will cost employers considerably less than paying for employee health coverage. In highly-competitive markets, business owners will likely decide to pay the lesser amount in taxation and force their employees into the government-managed insurance exchange plans. As a result, many workers will lose their current health coverage.

New rules mandating community rating, guaranteed issue of insurance and non-denial for pre-existing conditions will greatly impact the private insurance industry. Carriers in Washington state, as well as throughout the country,

[4] "Health Mandate Cost Calculator," National Retail Federation, Patient Protection and Affordable Care Act, calculated penalties for a firm with 100 employees, May 21, 2010, at www.nrf.com/modules.php?name=Pages&sp_id=1290.
[5] "Killing Jobs through National Health Care Reform," by David G. Tuerck, Ph.D., et al., BHI Policy Study, Beacon Hill Institute at Suffolk University, Boston, Mass., March 2010, at www.beaconhill.org/BHIStudies/HCR2010/BHI-HealthCareReformAsJobKiller10-0317.pdf.

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will become dependent on government revenue, mandated benefit plans, and government subsidies for their customers. Given the extensive web of regulations, penalties, taxes and oversight, private insurance companies will operate essentially like public utilities.

As it is implemented, the new health care law will dramatically change the health care landscape in Washington state. Every employer and employee will be subject to increased government regulation, higher taxes and fewer personal choices in health care.

Data Sources:

"How the Health Care Reform Legislation Will Impact Your Individual and Employer Clients," National Association of Health Underwriters, March 25, 2010.

"Health Reform Implementation Timeline," The Kaiser Family Foundation, March 25, 2010.

"Timeline of Major Provisions in the Democrats' Health Care Package," Committee on Ways and Means Republicans, U.S. House of Representatives, March, 2010.

"Health Reform Implementation Timeframe: Key Provisions," Coalition for Affordable Health Coverage, March, 2010.