

## Obama's Plan for Health Care Reform: What Does It Mean for Employers?

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**A**lthough the election is over, the issues discussed throughout the campaign remain. In fact, many of these issues are even more critical now with job loss at a 26-year high, businesses on the brink of bankruptcy, and two ongoing wars abroad.

Given these challenges, some advocates of health care reform worry that their issue — a major one in the presidential campaign — may be put on the back burner. However, it remains a front and center issue on Main Street. In fact, the results of a Kaiser Family Foundation poll issued right before the election indicated that nearly twice as many voters agreed that in the face of a struggling economy, "it is more important than ever to take on health care reform" than agree that the country cannot tackle this issue given the current economic situation. If the poll were taken today, the proportion of those advocating health care reform would likely be even higher.

Congress also continues to weigh in on the issue. In his November 2008 white paper, *Call to Action: Health Reform 2009*, Senator Max Baucus, Chairman of the Senate Finance Committee, outlined his health care reform proposals. He stated that the link between health care costs and the economy is undeniable, and "reforming the health care system is essential to restoring America's overall economy and the financial security of our working families."

President-elect Barack Obama's appointment of former Democratic Majority Leader Tom Daschle to head the department of Health and Human Services and lead the new White House Office of Health Reform reinforces Obama's commitment to health care reform. Comments by other key members of President-elect Obama's policy staff indicate that the incoming administration remains devoted to health care reform. In fact, Peter Osrzag, currently the director of the Congressional Budget Office (CBO) and named as Obama's budget director, stated in his CBO blog that health care reform is critical to bringing the economy back from the brink because

the cost of the current system will only add to economic difficulties.

The question is what does the incoming administration's commitment to health care reform, articulated in the President-elect's statements and comments, mean for employers? To answer that question, this *InsightOut*:

- Provides an overview of the administration's health care reform objectives
- Focuses on five areas of reform Obama discussed during his campaign that could profoundly affect employers
- Poses questions to employers that relate these reforms to their specific situations

### HEALTH CARE REFORM OBJECTIVES

Obama's stated position on health care reform suggests an expanded role for public sector institutions and new regulatory requirements. The overarching objectives of his agenda are to:

- Reduce the number of uninsured
- Provide a coverage "safety net" for the uninsurable
- Make coverage more affordable for low-income individuals
- Improve quality, care coordination, health system efficiency, and transparency
- Expand the use of health information technology (IT)
- Promote a more robust and accessible individual insurance market

- Encourage the use of best practice treatment protocols
- Collect and report provider outcomes, quality, and fee data

Next, we discuss how an Obama administration would attempt to achieve these objectives, focusing on five areas of special importance to employers.

## FIRST – ENHANCED ACCESS AND PORTABILITY

One of the main goals of an Obama health care reform plan would be to establish a system which gives individuals relatively easy access to affordable health coverage, whether employed or not.

To that end, Obama favors eliminating pre-existing conditions limitations and medical underwriting on individual insurance plans and establishing a new national health plan, which would compete head-to-head with privately insured products.

Obama’s national plan has been described as similar to the Federal Employees Health Benefit Program (FEHBP), the program covering federal employees including members of Congress. The FEHBP offers a range of plan options from Consumer-Directed Health Plans (CDHPs) with Health Savings Accounts (HSAs) through co-pay-based HMO plans.

He also proposes a National Health Insurance Exchange (“the Exchange”), a public agency that would create rules and standards for participating insurance companies. The Exchange

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would ensure that the coverage offered is at least as comprehensive as the national health plan and that the premiums are fair, stable, and not based on health status. Obama states that these initiatives would broaden the array of coverage choices for people not eligible for employment-based benefits and assist them in navigating the insurance markets.

## What Might Enhanced Portability and Access Mean for Your Employer-Sponsored Plan?

- As an employer, would you prefer to be out of the health insurance delivery business or do you find the current practice of providing coverage a tax-effective way to compensate your employees?
- If greater coverage portability allowed employees to move more freely from job to job, what range of impacts could that have on your organization?
- If your organization is in an industry experiencing — or likely to experience — skilled labor shortages, would your retention efforts be hampered if your older (pre-Medicare) employees had better access to individual health care insurance and, as a result, could retire earlier?
- If employers are not the primary source for medical coverage, will they still be inclined to promote health and wellness in the workplace? If not, would the government fill the void?

## SECOND – MANDATES

Obama advocates an employer mandate and a partial individual mandate by requiring coverage for all children and allowing young people up to age 25 to remain covered under a parent’s plan. Under the Obama campaign’s “pay or play” proposal, employers would be required to meet minimum standards for health coverage or contribute a percentage of their payrolls toward a new national health plan. This money would be used to fund the proposed national plan, in which both individuals and employers could enroll.

The Obama plan would offer a Small Business Health Tax Credit and would provide small businesses with a refundable tax credit of up to 50 percent of premiums paid on behalf of their employees. To be eligible for the credit, small businesses would

have to offer a quality health plan to all of their employees and cover a meaningful share of the cost of employee health premiums.

The Obama proposed mandate would most significantly affect small employers not currently offering health coverage; employers with large, uninsured segments of their workforces, particularly low-paid, uninsured workers; and those not meeting the yet-to-be-defined minimum coverage standards. It is not known at this time whether the mandate would apply to part-time workers, but certain industries, such as retail, could also be affected significantly.

### **Questions for Employers to Consider: Are Mandates the Only Way?**

- Is coverage expansion through mandates worth the potential cost to the U.S. economy?
- Would an employer “pay or play” mandate make it more difficult for your organization to compete globally?
- Would an employer mandate make it more difficult for your organization to differentiate itself from a recruitment and retention perspective?
- Depending on the definitions of quality health plan and meaningful share of cost, would small employers be able to afford coverage, even with the tax credit?
- If coverage is expanded through mandates, would a reduction in uncompensated care eventually result in lower provider fees thus lowering health insurance premiums and encouraging employers to establish and maintain plans?

### **THIRD – CONSUMER-DIRECTED HEALTH PLANS (CDHPs)**

Since CDHPs were unveiled in early 2000 and HSAs were legislated into existence in 2003, employers have gradually, but steadily, adopted them. According to the Kaiser/HRET Annual Employer Health Benefit Survey, 22 percent of organizations with 1,000 or more employees offered a CDHP in 2008, and 25 percent of workers eligible for employer-sponsored coverage have access to a plan. The Kaiser Survey reports that, in 2008, roughly 12.6 million people, or eight

percent of those enrolled in employer-sponsored health plans, were covered by a CDHP.

Questions abound with regard to CDHPs. Are the plans suitable for low-income workers? Do they effectively control medical trend? Can patients really manage their own health care and successfully negotiate prices with providers? Do CDHPs discourage patients from receiving the necessary care? There are probably as many answers to these questions as there are constituencies with a vested interest in the future of CDHPs.

Obama did not specifically mention CDHPs during the campaign. His call for a mandate speaks of employers making a meaningful contribution to the cost of quality health coverage. Whether a CDHP would qualify as quality health coverage remains an open question. It is perhaps noteworthy that Obama proposes a national health plan similar to the FEHBP. As mentioned earlier, the FEHBP offers a range of plan options, including a CDHP option, but the Obama plan does not specify whether to qualify, a plan would be required to include all, some, or only the most generous FEHBP options.

### **Questions for Employers to Consider: What Does the Future Hold for CDHPs?**

- Should CDHPs have an expanded role under health reform?
- Does Obama’s silence on CDHPs suggest that he might advocate curtailing both the tax advantages and possible expansion of CDHPs/HSAs?
- If so, what impact would that have on your organization?

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- Should the quality health coverage Obama advocates include a CDHP option?
- Should employers have the option to offer a CDHP as their only plan? How will health reform affect your organization if you have already replaced all other health care options with a CDHP?

## FOURTH – COST

Obama estimates that the cost of his reform proposal will be \$50 to \$60 billion when fully phased in. He states that it will be paid for by allowing the Bush tax cuts for individuals making more than \$250,000 to expire in 2010 and from additional savings achieved by improving the health care system (such as improved health IT and malpractice reform). Obama’s plan does not directly state how much revenue would come from employers that choose to “pay” rather than “play” by providing quality health care coverage.

### **Questions for Employers to Consider: Who Will Pay?**

- Would additional payroll taxes be imposed on employers to pay for the plan?
- Would it be more cost effective for employers to pay rather than play, forcing more individuals into the proposed national health plan or the individual insurance market?
- If this proposal diminishes the viability of the employer-based system, would the individual market or government be willing and able to absorb the newly uninsured?

## FIFTH – STATE INITIATIVES

During the campaign, Obama indicated that his plan would not replace what states are doing. The plan does not appear to stifle possible solutions or initiatives originating at the state-level, provided federal minimum coverage standards are achieved. It does not, however, explicitly discuss ERISA pre-emption or its possible impact on other aspects of Obama’s health reform proposals.

### **Questions for Employers to Consider: Will State Initiatives Continue?**

- In addition to federal law, would employers be subject to the laws of the states and localities in which they maintain a workforce?
- As an employer, can you afford the administrative costs of complying with a variety of state and local laws governing employer-provided health care?

## IN THE FINAL ANALYSIS ...

The demise of the Clinton health reform plan in 1994 and the employee reaction to changes in employer-sponsored plans occurring both before and since have cast light on the biases and expectations of Americans with respect to health care. Despite the consequences, Americans seem to favor a system in which:

- Government plays a limited role
- Patients have free choice of providers and care settings
- Third parties stay out of health care decisions
- Heroic life-saving treatments are available to all
- Patient out-of-pocket expenses are limited

Most reformers and economists would agree that these values are substantially opposed to a sustainable health care system. Some might go further, arguing that as long as health care delivery remains in the hands of independent businesses driven by revenue growth and a profit motive, any effort to reform the existing public-private system is merely a band-aid.

To achieve reform in 2009 and beyond, the incoming administration, Congress, and the American public must all be ready to compromise. In short, to reach consensus, it is likely that some or all of the Obama reform proposals will be changed or tweaked. Only time will tell.

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