

# health care reform

## Questions from the Buck Consultants October 13, 2009 Health Care Reform Webcast

- 1. What about employers that have employees pay a penalty for not participating in the wellness plan? This additional cost for those employees put some of those employees' premium costs over 10% of their income. So I don't see this as a positive for Wellness. Am I missing something?**

It is unclear whether this penalty would be included. Literally read, it would not because it is a penalty and not a premium. The legislation literally reads that it is based on the premium. However, future regulations most likely would clarify this.

- 2. I am sure that employers will want to somehow compensate or reimburse employees who are penalized for the Cadillac plans, is there any prohibition in the plan to prevent the reimbursement (even if it might be a taxable event)?**

Plans that cover people who are under 64, have not yet retired, and covered as individuals by a so-called "Cadillac" plan valued at \$8,000 or more or as a family member in a plan valued at \$21,000 or more, will be subject to an excise tax. The excise tax is on the insurer for insured plans and the third party administrator for self-funded plans. The concern is that the insurer and TPA would pass this cost onto the employer. Then, it would be up to the employer to decide whether to pass this onto employees.

- 3. Are the excise tax provisions indexed or are the bills going to have to be revisited regularly to raise the thresholds?**

The thresholds will be indexed based on CPI-U plus 1%. However, the indexing will not begin until 2014.

- 4. How would the \$8K and \$21K thresholds work for employers that offer multiple medical plan options (most of which would fall below the threshold, but one or two of which could exceed the threshold)?**

You would determine the amount for each employee based on the plan in which each employee is enrolled.

- 5. What amounts go into the "Cadillac Plans"? Is this a per employee/per year cost based on Administrative costs and Claims?**

The amount is determined each year for each individual participant. The following amounts are included: the aggregate premiums for health insurance coverage (including major medical, dental, vision, other supplementary health insurance, and health reimbursement account (HRA) amounts), the amount of any salary reduction contributions to a Health FSA for the taxable year, and the dollar amount of any employer contributions to a Health Savings Account. While not specifically addressed, for self-funded plans probably a cost such as the COBRA premium (including claims and expenses) would be used as the premium.

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**6. We provide coverage to Board members and continuation for a former CEO from an acquisition due to his separation agreement. How would this reform affect these 2 groups?**

If neither the Board members nor the former CEO are employees, it does not appear that you would be required to provide coverage or pay a penalty for such employees. However, if your coverage does not meet the minimum coverage requirements, such individuals may be subject to a penalty.

**7. What if an employer provides an access only retiree benefit (meaning that the employer does not subsidize retiree health and merely allows retirees access to the group health plan) or a very limited subsidy for retiree coverage? Would the employer still get a reimbursement?**

If these amounts meet the threshold under both the Senate HELP and the House bills, most likely these could get reimbursed. However, any reimbursement would need to be used to reduce retiree costs. Under the Senate Finance version it is unclear if such plans would qualify because to qualify for the reimbursement, the plan must be a plan that is appropriate for a mature population, offers preventative benefits, and has demonstrated cost-savings for those with chronic or high cost conditions.

**8. If I were to stop covering my retirees, would I be subject to assessments based on the retirees' receipt of subsidies?**

The assessment applies to employers with 50 or more employees who do not offer coverage. Although this language is not clear, the assessment language states that the assessment only kicks in for each full-time employee (defined as working more than 30 hours a week) who is enrolled in a state exchange and receiving a tax credit. Therefore, it appears that the assessment would not apply to retirees. However, if the retiree coverage does not meet the minimum creditable coverage, the retiree could be subject to the penalty of \$750 per year.

**9. Have they excluded collectively bargained plans yet?**

Collectively bargained plans generally have not been discussed. However, one provision would provide that the essential benefits and minimum benefit requirements would not apply until the later of the effective date of the legislation or the expiration of the collective bargaining agreement.

**10. This is not related to the current conversation, but is there any sense regarding team members that we have coded as part-time, but some of these folks often work 30+ hours per week ... where do they fall? Will I pay an assessment if I don't cover them? Will they be required to have insurance?**

Under the House and Senate HELP provisions, you would be required to cover all employees, both full-time and part-time. However, under the House version you could treat full-time differently than part-time. For example, provide full-time employees employer coverage and pay a penalty for part-time employees. Both versions would have full-time defined under regulation.

Under the Senate Finance version, it is unclear whether you would have to cover all employees. However, the assessment would only be based on all full-time employees (working more than 30 hours per week).