AMERICAN BENEFITS COUNCIL

Results from the Council's Membership Survey: 40 percent tax on Health Benefits

The Council recently surveyed its members[1] regarding various aspects of the 40 percent tax on health benefits, as imposed by the Patient Protection and Affordable Care Act (PPACA). Our survey findings, as set forth below, illustrate the strong concerns our plan sponsor members have about the 40 percent tax and the effect it is already having on employers and their employees with respect to current benefit offerings. This includes the significant potential for the 40 percent tax to require many employers to eliminate important benefit offerings for their employees in the very near term.

The Tax is Not a 'Cadillac' Tax

During debate of the PPACA, the tax was advertised as a tax on "high-cost, Cadillac plans" enjoyed by executives. The reality is quite different. Even with changes to their benefit plans, many employers are concerned they will incur a 40 percent tax liability in 2018 or shortly thereafter. Of those surveyed, 49 percent agreed with the statement "[a]t least one of our plans will trigger the tax by 2018 or shortly thereafter, even though we are making changes to avoid the tax."

When asked why employers may trigger the 40 percent tax, respondents cited such reasons as:

- employees located in geographic areas with higher health care costs.
- a workforce that is older than the average workforce and thus has relatively higher costs.
- employees that are generally higher-cost individuals (for example, those with a high prevalence of chronic conditions or other factors resulting in relatively higher claims experience).

[1] The informal survey, between May 1 and May 11, 2015, was sent to 281 plan sponsor member companies. Ninety-three of the 281 company representatives responded to the survey online via SurveyMonkey.com. Not all respondents answered all questions. In some cases, the results have been rounded to the nearest percentage point.

Though the tax was intended to apply only to the most expensive and generous health plans, rising health costs and a faulty indexing mechanism make it likely that the tax will soon affect even plans of modest value.

The excise tax thresholds are indexed for inflation according to the Consumer Price Index for Urban Consumers (CPI-U), however, medical inflation increases typically twice as fast as CPI-U. As a result, this measure is inadequate for indexing the value of health care services. In addition to applying to large business, the tax also applies to state and local governments, small businesses, self-employed individuals, multiemployer plans, not-for-profits and other tax exempt organizations.

THE TAX NEEDS TO BE REPEALED NOW -- KICKING THE CAN DOWN THE ROAD IS NOT A VIABLE STRATEGY FOR CONGRESS

The 40 percent tax is already affecting how employers, including our member companies, offer benefits. Its effect on employers and their employees will grow over time, in part because of the limited annual indexing of applicable dollar limits. In the Council's survey, 43 percent of respondents stated that they "will make any plan changes required to avoid the tax." Only 11 percent of respondents indicated that they "do not anticipate triggering the tax and therefore are not making changes because of the tax."

THE TAX IS UNLIKELY TO RAISE $87 BILLION IN FEDERAL REVENUES

The Congressional Budget Office ("CBO") and the Joint Committee on Taxation ("JCT") estimate that only 25 percent of the revenue generated by the 40 percent tax will be a result of employers actually paying the tax because they offer coverage above the thresholds. The other 75 percent is expected to result from employers decreasing health benefits coverage to avoid triggering the tax. The estimate assumes employers will raise taxable wages by the same amount they are decreasing health benefits, thus increasing federal revenues.

The Council asked its members if they anticipate increasing employee wages by the same amount they decrease health benefits as a result of the 40 percent tax. Fully 84 percent of survey respondents indicated that they do ***not*** anticipate increasing wages as a result of decreased health benefits. Only 11 percent answered "possibly" with respect to the question of whether they anticipate increasing wages to reflect decreased health benefits, and no respondents answered "yes." Based on these results, we believe the actual amount of revenue raised as a result of implementing the 40 percent tax will be much lower than the amount estimated by CBO or JCT.

THE TAX IS FORCING EMPLOYERS TO DECREASE BENEFITS AND INCREASE COST SHARING

Employers are already implementing changes to their benefit offerings to avoid hitting the 40 percent tax. Based on the Council's survey, some of the benefit design changes being considered are: eliminating some higher-cost plans (58 percent), offering only high deductible health plans (53 percent), eliminating spousal coverage (12 percent) and limiting provider networks even with no change to cost-sharing amounts of benefits offerings (11 percent).

The tax is also impacting medical savings accounts. Medical savings accounts are a principal means by which employees, including lower-income individuals, cover unreimbursed out-of-pocket medical expenses. Over time, as the 40 percent tax pushes employers to increase employee cost-sharing to avoid triggering the tax, reliance on these accounts will grow. Unfortunately, the 40 percent tax simultaneously causes employees to lose access to these important medical savings accounts.

For example, of the two-thirds of employers surveyed who include a health savings account ("HSA") in their health plan, 81 contribute to the accounts on behalf of employees enrolled in qualifying high deductible health plans. More than half (51 percent) of respondents indicated they anticipate reducing contributions to HSAs and another 12 percent anticipate eliminating HSAs altogether as a result of the 40 percent tax.

THE TAX WILL PENALIZE EMPLOYERS STRIVING TO IMPROVE THE HEALTH OF THEIR EMPLOYEES

On-site clinics are an important way that many of our members have sought to control plan costs or otherwise provide important wellness-related services or preventive care (such as diagnostic testing, occupational-related health screenings, and/or flu shots and vaccinations). In fact, 36 percent of respondents indicated that they offer employees health or wellness services at an on-site facility. Respondents indicated that they offer each of the following categories of services set forth below:

- 80 percent offer Immunizations
- 60 percent offer Injections of antigens
- 70 percent offer Aspirin and other nonprescription pain relievers
- 67 percent offer Services related to treatment of on-site injuries
- 37 percent offer Prescription medicines

In addition to the categories listed above, respondents also indicated that they provide other services, such as wellness screens, blood tests, mental health services and primary care.

Workplace wellness programs have also become increasingly popular in the effort to improve employees' general well-being and health outcomes. These programs typically result in reduced employee absenteeism and pre-absenteeism, as well as higher employee engagement and satisfaction. Additionally, such programs may, over time, facilitate a reduction in health care costs, which could in turn result in reduced health "spend" for employers and reduced premium increases for employees. Wellness programs should be excluded from the calculation of applicable employer-sponsored coverage for purposes of the 40 percent tax.

CONCLUSION

PPACA was intended to build upon the employer-sponsored health care system that successfully and efficiently covers over 150 million Americans. Unfortunately, the 40 percent tax threatens the long-term viability of that system, by forcing employers to cut benefits to avoid the tax, and creating a scenario under which eventually all plans will be hit by the tax. Unless it is repealed, the 40 percent tax will very negatively impact American workers and their families, ultimately leaving them with fewer choices and higher out-of-pocket costs.