New Administration Action Could Give 11 Million Workers More Health Insurance Options

Grace-Marie Turner | *FORBES* – June 13, 2019 http://bit.ly/Forbes061319

The Trump administration finalized a new rule late today that offers important opportunities for businesses, especially small employers, to offer more health coverage options for their workers and for employees to have much more flexibility and control over their health care dollars.

The rule undoes an Obama administration action that forbade workers from using funds in a Health Reimbursement Arrangement (HRA) to purchase health insurance policies offered in the individual market outside their workplace. "President Trump's new rule undoes this misguided restriction" that reduced choices for workers and especially for small businesses, White House economist Brian Blase explains in this CNN Business post.

HRAs are employer-funded accounts that workers use to pay for health insurance premiums or medical expenses. They were created in 2002 by the George W. Bush administration to create a new pathway for employers to offer an HSA-like product to their employees.

Employees can spend the money in their HRA accounts on policies they may prefer outside the workplace. The funds are tax free to both the employer and employee. Additionally, leftover funds can roll over from year to year.

This revised HRA rule is expected to give an estimated 800,000 businesses another option to offer coverage and 11 million workers and their dependents more options in obtaining health insurance.

It will especially benefit smaller employers who can be overwhelmed with the costs and complexities of offering health coverage so they can be more competitive with larger firms.

The HRA option is expected to eventually increase the size of the individual market, which has been decimated by Obamacare, by 50%. It would help improve the market by drawing insurers back in to compete for millions of potential new customers. And the price transparency is expected to put downward pressure on costs.

Today's action completes a trilogy of options that began with an executive order issued by President Trump in 2017 directing his administration to create new health care options for Americans by promoting choice and competition in the health sector—a dramatically different approach than the Obama administration took.

The Trump administration earlier finalized rules allowing people to purchase short-term insurance policies that do not have to comply with the mountain of rules and regulations that make Obamacare plans so expensive. And it finalized a rule allowing small businesses to join Association Health Plans to get some of the economies of scale larger companies have in obtaining coverage.

The new HRA rule is potentially the most impactful of the three. It could well transform the employer-based health insurance market in much the same way that 401(k) changed the retiree benefit world. HRAs give employees much greater control over that part of their salaries that companies spend on their behalf to buy policies that human resource directors have chosen for them. It turns health benefits into a defined contribution rather than a defined benefit, just as 401(k)s did with retirement coverage.

Starting on January 1, 2020, employers will be able to offer their workers HRAs to buy individual market coverage for themselves and their families. Unlike Flexible Spending Accounts (FSAs), any unspent HRA money can be rolled over from year to year (i.e., no use-it-or-lose it requirement).

More than 80% of employees at firms that offer coverage have a "choice" of only one plan. It may take a while for the individual market to respond—and for states to relax rules in response to new pressures from workers. But once it does, employees of even of the smallest firms can have a plethora of choices.

"Too many Americans today have little say in how their healthcare is financed," said HHS Secretary Alex Azar, one of three cabinet departments that joined in issuing the rule. "President Trump has promised Americans that he will put them in control of their healthcare, and this expansion of health reimbursement arrangements will help deliver on that promise by providing Americans with more options that better meet their needs. This rule and other Administration efforts are projected to provide almost 2 million more Americans with health insurance."

"Individual Coverage HRAs can help enable businesses to focus on what they do best— serve their customers—and not on navigating and managing complex health benefit designs," Blase explains.

Individual coverage HRAs provide tax advantages because the reimbursements provided to employees do not count toward the employees' taxable wages. In effect, individual coverage HRAs extend the tax advantage for traditional group health plans (exclusion of premiums, and benefits received, from federal income and payroll taxes) to HRA reimbursements of individual health insurance premiums, the administration explains.

There has been a steady erosion of employer coverage, especially in small firms overwhelmed by the complexity and costs of offering full health coverage. Between 2010 and 2018, the percentage of the smallest firms offering coverage declined from 59% to 47% and from 92% to 71% at firms with 25-49 workers, according to the Kaiser Family Foundation Employer Health Benefits Survey.

The administration estimates that the HRA rule, combined with the AHP and short-term policy rule, will increase the number of people with private insurance coverage by nearly two million.

The rule includes guardrails as well. Firms that offer an individual coverage HRA must offer it on the same terms to all individuals within a class of employees, such as their salaried or wage workers or their full-time or part-time workers, etc. Contributions would have to be equal for everyone in the class, but they can be varied by age and number of dependents.

Employers can contribute as little or as much as they want to an individual coverage HRA.

The final rule contains another provision for "Excepted Benefit HRAs" (EB-HRA). This will allow an employer to deposit up to $1,800 a year into a separate employee EB-HRA account. The money can be used to help cover the cost of copays, deductibles, or noncovered expenses, but not to pay premiums for traditional insurance.

The EB-HRA can be used, however, to reimburse premiums for dental and vision coverage, as well as for short-term insurance plans, which typically cost 40% to 60% less than ACA plans. The rule explains how employers can structure the HRA so they are in compliance with the employer mandate.

To prevent adverse selection, an employer must offer either the HRA option or traditional insurance to each class of employees. Individual employees cannot opt in or out on their own.

Liberals are sure to blast the new rule that allows people to make their own choices about how their health care dollars are spent rather than having centralized bureaucracies make decisions for them.

"While some recklessly claim that the administration has been sabotaging the individual market, this rule makes clear we have been focused on expanding affordable options through choice and competition in all possible venues," Blase wrote. "We aim to deliver better results than previous policies centered on mandates and a 'Washington-knows-best' mentality."

Blase labored to shepherd the new rule through the complexities of dealing with three federal departments—HHS, Treasury, and Labor—that jointly issued the rule. An estimated 11 million people are expected to benefit once the market fully adapts in about five years.

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