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House Small Business Subcommittee on Health and Technology

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The Small Business Health Options Program

Background

The Patient Protection and Affordable Care Act (ACA) became law in 2010. The law is based on an individual mandate that requires every adult to own health insurance and an employer mandate that requires every employer with 50 or more full-time employees (FTEs) to provide health insurance to their employees.¹

Under the ACA, states are allowed to expand their Medicaid entitlement program for the poor and are required to establish health insurance exchanges or utilize the federal exchange. These exchanges function as insurance brokerages where individuals can access insurance plans and potentially receive taxpayer subsidies to help them pay the insurance premium. Each exchange must offer at least four plans which must include the ten essential benefits mandated in the ACA. Pricing must be approved by the government.

The ACA also attempts to establish an exchange marketplace for employers with less than 50 FTEs. The Small Business Health Options Program (SHOP) is designed to help “businesses provide health coverage to their employees.”²

Small businesses with less than 25 FTEs may qualify for tax credits if they pay at least 50 percent of the total health insurance premium cost for employees and the average wage of their employees is below \$50,000. The tax credit is determined by the number of employees

¹ U.S. Department of Health and Human Services @ <http://www.hhs.gov/healthcare/rights/law/>

² What is the SHOP Marketplace @ <https://www.healthcare.gov/what-is-the-shop-marketplace>

and by average wages. Basically, the smaller a business is, the larger the tax credit it could receive.

Phase I of the employer tax credit began in 2010. Eligible employers may qualify for a tax credit of up to 35 percent of their contribution toward employees' insurance premiums. The employer must pay at least 50 percent of the employee-premium.

Phase II of the employer tax credit began in 2014. Eligible employers may receive a credit of up to 50 percent of their portion of premium costs. However, these employers must purchase coverage through a SHOP Marketplace, or qualify for an exception to this requirement, to be eligible for the credit. The credit is only good for two consecutive tax years.³

At least 70 percent of employees must be enrolled in the SHOP Marketplace for the employer to qualify for tax credits. Employees who purchase their own health insurance count toward the 70 percent. Employees who have insurance through their spouse or who have government insurance, such as Medicare or Medicaid, do not count toward the total.⁴

Some state exchanges started accepting enrollees through a SHOP Marketplace this year. The federal exchange will start accepting online applications this November for coverage in 2015.

Employers with more than 50 FTEs will be able to access SHOP on November 1, 2015 and employers with more than 100 FTEs will be able to access the program in 2016.⁵

The demand and interest level of employers in an exchange such as SHOP was never determined. There is speculation and anecdotal evidence that SHOP was placed in the ACA for political reasons and convenience, rather than at the insistence of the law's architects.⁶

Enrollment in SHOP to Date

When the ACA became law in 2010, estimates showed that 1.4 million to 4 million employers were eligible for tax credits. Only 170,300, or 4 to 12 percent of employers, filed for credits that year.⁷

³ What You Need to Know About the Small Business Health Care Tax Credit @ <http://www.irs.gov/uac/Small-Business-Health-Care-Tax-Credit-for-Small-Employers>

⁴ It's Still Hard for Small Businesses to Shop Around for Health Coverage by Meir Rinde @ <http://www.njspotlight.com/stories/14/04/29/it-s-still-hard-for-small-businesses-to-shop-around-for-health-coverage/>

⁵ Obamacare Small Business Facts @ <http://obamacarefacts.com/obamacare-smallbusiness.php>

⁶ SHOP Flop: Obamacare for Small Businesses, by Brett Norman @ <http://www.politico.com/story/2014/06/shop-small-business-health-options-program-delay-107649.html>

Individual state exchanges have had varying success at SHOP enrollment. New York state had nearly 1 million enrollees in its exchange, but only one percent were in the small employer market. California had a similar experience with 1.4 million enrollees overall, but less than 1 percent enrolled in SHOP.⁸

The federal exchange has delayed online enrollment until November, 2014.⁹

Officials in Washington state chose to establish a state-run health insurance exchange, including a SHOP. Coverage began in 2014, with SHOP having an open enrollment period. Only one carrier, Kaiser Permanente, offered plans and only offered those five plans in two counties in Southwest Washington. Although 4,300 small businesses created online accounts, only 11 companies, with a total of 40 people, actually purchased insurance on the SHOP exchange this year.¹⁰

A second insurance company, Moda, has applied to offer 14 plans state-wide starting in 2015.

The Director of the Washington State SHOP Marketplace, Catherine Bailey, stated that “many of the carriers were not interested in expending additional resources to be in the small business exchange right away.”¹¹

The Government Accountability Office (GAO) has speculated that the use of tax credits and the SHOP enrollment are so low for several reasons. The first reason is the complexity in doing all the paperwork.¹² Conversations the GAO has had with tax preparers reveal that employers must spend from two to eight hours or possibly longer collecting employee data and tax preparers must spend an additional three to five hours calculating the credit.

Second, the GAO reports the tax credit is not a large enough incentive for many small employers.

⁷ Small Employer Health Tax Credit: Factors Contributing to Low Use and Complexity @ <http://kstp.com/kstplimages/repository/cs/files/SMALL%20EMPLOYER%20HEALTH%20TAX%20CREDIT.pdf>

⁸ Why We Still Don't Know How Many Small Businesses Signed Up Through Obamacare by J.D. Harrison @ http://www.washingtonpost.com/business/on-small-business/why-we-still-dont-know-how-many-small-businesses-signed-up-through-obamacare/2014/07/10/773d0cb6-0859-11e4-a0dd-f2b22a257353_story.html

⁹ Obamacare's Online SHOP Enrollment Delayed by One Year by Sarah Kliff @ <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/11/27/obamacares-online-exchange-for-small-businesses-is-delayed-by-one-year/>

¹⁰ With Statewide Insurance Options, Washington's Business Health Exchange Readies For Close-up by Gregg Lamm @ <http://www.bizjournals.com/seattle/blog/health-care-inc/2014/09/with-statewide-insurance-options-washington-s.html>

¹¹ Ibid.

¹² See ref 5.

Third, the majority of small businesses have never offered health benefits to employees. The Medical Expenditure Panel Survey (MEPS) estimated that 83 percent of small companies did not offer health insurance in 2010 when the ACA became law.

In addition, insurance companies are seeing a drop-off in employer-sponsored health insurance for small businesses. The CEO of Well Point, Joseph Swedish, is on record earlier this month stating that “small employers (are) shifting employees to the individual exchange or (are) dropping coverage completely.” He goes on to say small employers are making “a very radical, fast shift to walking away from the so-called moral imperative” of providing health insurance.¹³

Policy Analysis

Although the employer mandate is a critical part of the ACA, the SHOP marketplace for small businesses seems to be almost an afterthought in the law. There is no clear evidence of interest on the part of small companies to provide health insurance through a marketplace with tax credits.

Small businesses are typically start-up or low-margin companies where the added cost of employee health insurance can mean the difference between success and failure. The paperwork and regulatory burden in the SHOP exchange are definite hurdles for a small business employer.

There is no real free market in the individual exchanges or in SHOP. Proponents will claim that competition exists, yet all insurance plans offered in the exchanges must contain the ten government-mandated essential benefits. Insurance premium prices must be approved by the government. Consequently, individuals and employers only have government-approved plans and not meaningful choices or real competition.

The incentive of tax credits has not been significant enough to encourage employers to use SHOP. Obtaining the credit is so complicated that small businesses are unwilling or unable to spend the time and effort to complete the necessary forms.

The SHOP Marketplace duplicates the private insurance marketplace with an added burden to taxpayers. Private association health plans, for example, have flourished for years without government financial support.

Since employer interest and utilization of the tax credit is so small, the benefits of the SHOP Marketplace are unclear.

¹³ But Small Employers are Walking Away From Coverage by Sarah Wheaton @ <http://www.politico.com/politicopulse/0914/politicopulse15173.html>

Recommendations

Designing an insurance exchange, whether it's private or government-run, offers each state, like Washington, the opportunity to reform health care delivery by starting with a "clean slate" and moving toward a patient-oriented, consumer-driven system. The exchange can be a transparent, information-based market where individuals and small businesses can select the plan most appropriate to their needs. States can use the exchange as a mechanism to combine all existing state government insurance plans, such as Medicaid and Basic Health, into one administrative program.

Done right, the exchange should be easy to use and should promote decreased health care costs. Insurance rates and benefit levels should be set by the insurance market and not by government regulations. The administration of the exchange should be done through a non-political, independent board, not by a politicized bureaucracy.

Under the ACA, all plans must contain the ten essential benefits that meet federal requirements. Washington state has 57 benefit and provider mandates that overlap the federal benefits. Ideally, the state exchanges should be able to offer an array of "mandate-free" or "mandate-light" insurance plans that satisfy market needs. Greater use of high deductible insurance plans coupled with health savings accounts can control costs and offer more choices for patients and employers without compromising quality.

Any subsidies in the exchange should flow to and be controlled by the patient, not by insurance executives or government officials. Tax credits or premium supports to purchase health insurance could also be offered in an exchange.

Each state can function as a laboratory to design the most efficient, cost-effective exchange for small businesses and individuals. Although the ACA includes hundreds of new mandates and regulations, states should have an opportunity to overhaul their existing programs, start fresh and establish a meaningful patient-directed, market-oriented health care system. The alternative is to submit to more government regulation and central planning with the attendant bureaucratic inefficiencies which will not increase competition, improve access, or decrease costs to patients and employers.

