10-9-2013

Breaking the Barrier: Providing Affordable Health Care Coverage for Small Businesses under the Affordable Care Act

April Fuller

American University Washington College of Law

Follow this and additional works at: http://digitalcommons.wcl.american.edu/hlp

Part of the Health Law Commons

Recommended Citation

IN THE NEWS

BREAKING THE BARRIER: PROVIDING AFFORDABLE HEALTH CARE COVERAGE FOR SMALL BUSINESSES UNDER THE AFFORDABLE CARE ACT

April Fuller*

The Small Business Health Options Program, commonly known as SHOP, is a section of the Affordable Care Act (ACA) that requires states to create an insurance exchange where small businesses can shop, compare, and attain affordable health insurance at group-plan rates for their employees. Initially, states may allow businesses with up to 100 employees to participate in SHOP, although they are only mandated to establish SHOP for businesses with less than fifty employees. Each state’s SHOP must be fully functioning by January 2014; if a state chooses not to implement a SHOP, the federal government will create one for the state, setting standards, policies, and requirements for the state’s SHOP. The state will lose all control in running its SHOP due to federal intervention. SHOP has become a crucial component of the ACA because it provides a feasible option for small business employees to satisfy the individual mandate provision of the bill, which requires everyone to purchase health insurance coverage.

Historically, small businesses were priced out of the health care market due to administrative costs, and high-risk employees tainting the small group of participants to spread those costs to. The average small business is charged approximately eighteen percent more than large businesses for the same health care coverage. These higher costs have real-life affects; fifty percent of uninsured Americans are employed at small businesses. Additionally, existing plans and markets have been so complicated that small businesses, lacking expertise in the healthcare field with strained or nonexistent human resources departments, were unable to compare prices, benefits, and policies.

GOALS OF SHOP
SHOP seeks to achieve three basic goals: access to affordable plans, provision of employer/employee choice, and uniform standardization for consumers.

Affordability
Small employers list high costs as the number one barrier to health insurance for their employees. Managing costs was a priority of SHOP policymakers, focusing on reducing high costs for the end user in small businesses by reducing the burden on small employers. The central tactic to control costs was to attain economies of scale by pooling small businesses, thereby distributing administrative costs and risks while increasing their buying power and reducing the volatility in health premiums for their employees. Offering affordable insurance to employees will similarly address adverse risk selection where a disproportionate number of higher risk consumers purchase expensive coverage because of existing health concerns.

Additionally, exclusive tax credits to employers intend to subsidize small businesses’ healthcare costs and encourage businesses to take on higher premium sharing responsibilities. This tax credit is currently available to small businesses with fewer than twenty-five full-time employees that make under $50,000 per year. To qualify, the business must cover at least 50% of its employee’s health insurance cost. The tax credit will then reimburse up to 35% of the costs back to the employer. This tax credit extends through 2013, with a new credit beginning in 2014 that is similar but will cover even more of the cost.

* April Fuller is a third year law student at American University Washington College of Law

Health Law & Policy Brief
The individual mandate is also a cost controlling tool.\textsuperscript{16} Under the ACA, each person must acquire affordable health insurance.\textsuperscript{17} If one has access to affordable health insurance, which is defined as a contribution of household income ranging from 2\% to 9.5\%, and decides not to purchase it, they will be subject to a financial penalty equivalent to the greatest of either $695 per year, or 2.5\% of household income.\textsuperscript{18} This will reduce costs by integrating generally healthy individuals into the risk pool, thereby spreading the risk and eliminating adverse selection.

**Employer Choice**

Next, policymakers focused on providing choice for employers and employees to select a plan that meets their needs. The final rule first requires SHOP to offer small businesses the option to select one cost-sharing level, which will allow their employees to choose from any available qualified health plan within that level.\textsuperscript{19} This would grant employees a substantial amount of choice from varying insurers and plans, similar to those that work at large businesses.\textsuperscript{20} Additionally, SHOPs have the option to limit employees' choice by forcing them to stay within one plan or set of plans, thereby reducing their options.\textsuperscript{21} Similarly, SHOPs may allow choice amongst cost-sharing levels, thus greater expanding employee choice.\textsuperscript{22}

Allowing employee choice amongst health plans within SHOP is important because many first-time purchasing employers would prefer their employees to receive a range of plans.\textsuperscript{23} Similarly, these employers will shoulder less of a burden in deciding which plans and budget would best suit the needs of its employees.\textsuperscript{24} Also, the employees of small businesses are diverse and, being such, have unique health demands that one plan may not uniformly address.\textsuperscript{25} Finally, employees currently experience interruptions in their health benefits from yearly changes caused by employers transferring plans in an attempt to distinguish what is best for everyone.\textsuperscript{26} Permitting the employer to choose his or her own plan would reduce these interruptions, allowing the employee to decide which plan is adequate and whether dissatisfaction warrants a transfer.

**Comprehensibility and Uniform Standardization**

The third goal that SHOP seeks to achieve is providing a user-friendly place where small business owners and employees can compare plans and benefits with access to information regarding the plans, options, insurers, and included provider networks.\textsuperscript{27} SHOPs strive to create centralized marketplaces to assist consumers in understanding their options and facilitate enrollment through user-friendly websites and toll-free hotlines.\textsuperscript{28} These centralized gathering points should also simplify employers and employees choices by comparing value and benefits.\textsuperscript{29} Additionally, the website promotes feedback from small business owners on the types and quality of information published including cost and value of plans, standardization and comparison tools, guidance on federal and state employer tax credits, descriptions of services offered by the exchange, and contact information for support staff.\textsuperscript{30}

SHOP will also help standardize healthcare by offering employers' streamlined billing and collection services.\textsuperscript{31} This is achieved by providing an aggregate billing summary with one monthly bill identifying the total payable to insurance providers, as well as a breakdown of employee benefits and each employee's responsibility.\textsuperscript{32} Similarly, the standardization of premiums will facilitate a "premium calculator," comparing available plans for employees and estimating costs after employer contributions, thereby allowing them to shop around.\textsuperscript{33} All of these capabilities are an effort to simplify and standardize the insurance market, providing employers with an understanding of their costs, their employees' costs, and of their employees' coverage to payment ratio.

**CONCLUSION**

SHOP will provide healthcare options to small businesses focusing on comprehensibility and uniform standardization of benefits, affordability and financial assistance in the form of tax credits, and a choice amongst varying plans and insurers. This will allow employees to participate in the plan that best suit their personal needs, thereby providing an affordable and feasible option for employees of small businesses to comply with ACA's upcoming mandates.
1 Julia James, Small Business Insurance Exchanges: States Must Form New Marketplaces Aimed at Helping Small Companies Buy Coverage More Easily and Cheaply, Health Policy Brief 1 (Feb. 9, 2012); AKIRA L. PIERCE, STATE INSURANCE EXCHANGES: WHAT EMPLOYERS NEED TO KNOW, SOCIETY FOR HUMAN RESOURCE MANAGEMENT (MARCH 23, 2012) LAST VISITED ON JULY 8, 2012, HTTP://WWW.SHRM.ORG/REINFORCING/ARTICLES/PAGES/EXCHANGES-_NEEDDKNOW.ASPX.
2 Terry Gardiner & Isabel Perera, SHOPPING AROUND, SETTING UP STATE HEALTH CARE EXCHANGES FOR SMALL BUSINESS: A ROADMAP, CENTER FOR AMERICAN PROGRESS 7 (JULY 2011).
3 Id. at 5.
4 Id. at 4.
5 Id.
6 Id. at 19; James, supra note 1, at 1 (shopping for health coverage for employees at small businesses is difficult due to: the huge variation in benefits that different plans cover, the high level of cost sharing required of people enrolled, and the limited providers offered in small business plans’ network).
7 Gardiner & Perera, supra note 2, at 10.
8 Id. at 6.
9 Id.
10 Id. at 8; Micah Weinberg & Bill Kramer, BUILDING SUCCESSFUL SHOP EXCHANGES, LESSONS FROM THE CALIFORNIA EXPERIENCE, PACIFIC BUSINESS GROUP ON HEALTH 1 (2011).
12 Competition and Clout for Small Businesses, supra note 11.
13 Id.
14 Id.
15 Id.
16 Gardiner & Perera, supra note 2, at 32.
17 MASSACHUSETTS HEALTH CARE REFORM: SIX YEARS LATER, THE KAISER FAMILY FOUNDATION 9 (MAY 2012) [HEREINAFTER MASS. HEALTH CARE REFORM].
18 Id.
19 State Health Reform Assistance Network, Charting the Road to Coverage, Overview of Final Exchange Regulations, MANATT HEALTH SOLUTIONS 11, 27 (APRIL 2012) [HEREINAFTER CHARTING THE ROAD TO COVERAGE]; COMPETITION AND CLOUT FOR SMALL BUSINESSES, supra note 11.
20 Competition and Clout for Small Businesses, supra note 11.
21 Charting the Road to Coverage, supra note 19, at 27.
22 Id. at 1.
23 Gardner & Perera, supra note 2, at 28.
24 Id.
25 Id.
26 Id.
27 Gardner & Perera, supra note 2, at 6.
28 James, supra note 1, at 1-2.
29 Competition and Clout for Small Businesses, supra note 11.
30 Gardner & Perera, supra note 2, at 19, 21.
31 Charting the Road to Coverage, supra note 19, at 27.
32 Id.
33 Id.