AIA Trust

Insurance & Financial Programs for AIA Members & Components

HEALTH CARE OPTIONS FOR SMALL AIA FIRMS

By Ted Scallet, Counsel to the AIA Trust

The AIA Trust has published a number of White Papers on important topics for AIA members, and as counsel for the AIA Trust for 25 years, I was asked by the Trustees to summarize current health care options for AIA members and small firms. When I started with the Trust in 1988, it sponsored a successful health plan for AIA members that gradually withered and died, and despite all of our best efforts, we have been unable to find a good alternative to offer AIA members. However, for the first time in a long while, there are now some good health care options for small firms, but choosing the right option is a complicated subject. The following and subsequent columns will address different aspects of this issue.

How Did We Get Here?

In 1974, Congress passed the Employee Retirement Income Security Act, or ERISA, which regulates employee benefits. There are hundreds of provisions dealing with employer-provided pension and retirement plans in that law and almost nothing about health plans. That was largely because, while there were plenty of employer-sponsored health plans in 1974, the amount of money spent on health care was not very great (at least compared to pension plans), and no one thought there was any crisis in health care. But in the decades that followed, the share of our economy devoted to health care rose exponentially because of Medicare, major advancements in medical technology, a rapid expansion in the companies that provide care, and many other factors. This left employers with an increasing share of the even more rapidly increasing cost of medical care, and suddenly we had a crisis.

What Happened to the Small Employer Insurance Market?

As the cost of providing medical care exploded, employers and insurers tried a variety of tactics to slow it down. The most common was an attempt to negotiate price discounts from doctors and hospitals based on the ability of the employer and insurer to direct the employees to or away from providers based on their prices. But that pricing leverage depends on how many prospective employee purchasers the employer or insurer represents. Small employers could not play in that game so they were increasingly saddled with paying non-discounted prices, which now included reimbursement for the discounts negotiated by large employers and insurers.

Because of the price volatility for health care services, many insurers decided to get out of the health insurance business , and those insurers that remained in the market focused more on large employers where there was more opportunity to distribute risk and cover their marketing costs. At the same time, state insurance regulators enacted laws to correct what they perceived to be unfair practices by health insurers in the policies they offered small employers and that further discouraged insurers from offering coverage to that market.

Closer to home, those laws made it impossible for groups like the AIA to negotiate different, and better, deals for their members. Soon there were few insurers offering health insurance to small employers, and even fewer willing to offer comprehensive insurance to individuals. The result was that, even if coverage was available, it was often too expensive for companies and individuals to afford.

What Has Changed?

Large employers were subject to the same price pressures as small employers, and even the largest of them were not big enough to avoid the substantial increases in health care costs that were becoming commonplace. The CFOs of these companies began to notice the health care line item on their financial statements, especially the impact of promises made to provide health coverage after retirement. Since that liability included the costs of providing the benefit for decades, the compounding effect of the actuaries' medical inflation assumptions was producing large increases in the liability every year.

Over the past decade, many of these employers responded by changing the nature of their health care promises, especially to retirees. Instead of agreeing to pay some portion of the expenses incurred by the retirees, the employers committed to providing a fixed amount that the retiree could use to select his or her own health insurance plan. They also contracted with providers who could assist the retirees with finding the right coverage. Thus was born "health insurance private exchanges."

Most of the private exchanges that exist today cover the post-65 Medicare eligible population. That is because the lion's share of their health care is paid for by Medicare, and most employers are willing and able to contribute enough money to cover the amounts most senior citizens pay out of pocket or for supplemental insurance. A few employers are considering private exchanges for their active employees, but there are a number of reasons why that is not a good option for many of them.

Beginning with the George W. Bush presidency, Congress passed a number of laws that also encouraged employers to shift medical care decision making to employees. But no discussion of health care options today can avoid the Affordable Care Act, and therefore no discussion can avoid the political turmoil surrounding it. While the ACA isn't perfect, it does offer some new opportunities and whatever your opinion about the Affordable Care Act, you simply cannot make reasoned decisions about what is best for you and your employees without understanding how this new law affects small employers.

What should I do now?

There are insurance carriers active in the small employer market, though nothing that has happened recently has made coverage that is available there any more affordable. There are also a few fledgling efforts to create private exchanges for small employers, but they cannot yet be considered a viable option.

The Affordable Care Act provides two options that you should consider. The first is the so-called SHOP Exchange, which is an exchange that small employers with non-highly compensated workforces can use to purchase group insurance and qualify for a federal tax credit to help pay for it. There are a number of online tools that can help you figure out what that might mean for you. Aetna has a very good version at http://www.aetna.com/employer-plans/small-business/tax-credit-calculator/ to help you estimate your potential tax credit amount but you should consult your tax professional regarding your unique circumstances.

The second option is to discontinue your health plan so your employees can qualify for coverage on the public exchanges. I have spent my career helping small employers provide health coverage to their employees so it pains me to say that many of AIA's small firms, and their employees, would be better off if the firms discontinued their plans. Small firms are not required to offer employee coverage, and it is likely that most of your employees will qualify for subsidies that will make the coverage available on the public exchanges less expensive than what it costs you to provide coverage to them. You can then use the savings to compensate the employees in other ways.

This is a complicated process. You have to consider how many of your employees will qualify for subsidies, and at what levels. There are many online tools that will help you make that decision. There is, of course, https://www.healthcare.gov/ and no one would blame you for avoiding it in light of the problems it has had. But I particularly recommend the Kaiser Foundation, which has a lot of non-partisan information about the Affordable Care Act, and has a very good tool for estimating subsidies that can be used to purchase health care. Their online tool illustrates health insurance premiums and subsidies for people purchasing insurance on their own in new health insurance exchanges for middle-income people under age 65 who are not eligible for coverage through their employer and who can apply for tax credit subsidies available through state-based exchanges. You can see this tool at http://kff.org/interactive/subsidy-calculator/.

But even if it looks like most of your employees can obtain affordable coverage if you discontinue your plan, you have to decide how to reallocate the money you have been spending on health care. Some should be spent on increasing employee compensation to help them purchase coverage on the exchange, but that type of compensation is taxable to them, and it raises the question what to do about increases for employees who have not been on your health plan (if for example, they have coverage through a spouse's plan). So you might also consider reallocating some of what you spend on health care to increasing your contributions to retirement plans. That type of compensation is not taxable to employees and increases the amounts firm principals can contribute to retirement plans for themselves on a tax-free basis. The AIA Trust sponsors a very affordable set of retirement plan options offered by the AXA Equitable Life Insurance Company. Check out the AIA Trust website at www.TheAIATrust.com/retirement-plans/ for more information on that option.

Conclusion

The AIA Trust is continuing to explore new viable options available in the small firm health care market. Please check the AIA Trust website, www.TheAIATrust.com/healthcare-coverage/ and its Facebook page often for the latest information – and watch this space for more details.