



Compliance Corner Webinar:

Changes Coming in the New Year

January 19, 2017

Q: I know that the 5500 proposed change comment period ended 12-16. Have you heard anything since?

A: No.

Q: I'm sure you'll cover this, but will the penalties for 1095/1094 forms be removed in the pending legislation? I want to be sure how to advise my clients regarding this. Thanks!

A: There is no pending legislation to point to at this time. The employer responsibility penalties will be a target of the repeal effort. But, the penalties for not filing the forms 1095/1094 are likely to survive as would penalties for intentional disregard of filing requirements.

Q: Would QSEHRAs be subject to 6055 reporting?

A: Likely no as they are not considered a health plan. But, this would be clarified by any rules that will be published.

Q: Any movement to get commissions out of the MLR

A: Yes, we are pursuing that strategy in addition to repealing the entire MLR provision.

Q: Wouldn't Tammy Baldwin possibly align herself with Trump. I would think she would be very wary based on what happened in Wisconsin in November?

A: We didn't address all possible Democrats who might cross over to support certain replacement provisions.

Q: Do you think that Chuck Schumer will be able to work with Republicans to reach a reasonable compromise?

A: He is taking a hard line approach at this time. But, elected officials understand the need to compromise. This should be especially the case if parts of the law have been repealed and the alternative of people losing coverage is seen as politically unpalatable.

Q: One of the circles at the beginning of the slides mentioned Medicare premium support. What does that mean?

A: It can mean allowing individuals to purchase a private plan in lieu of Medicare. We will need to see more details as plans are put into legislative language.

Q: For us as members, is the messaging different when we speak to our democratic representatives as opposed to republican representatives?

A: Yes, it can be. If you come to CapCon that is one of the issues we will be addressing.

Q: How can the new ruling on HRAs begin without written regulations and a comment period? When can we expect to



Compliance Corner Webinar:

Changes Coming in the New Year

January 19, 2017

see written regulations?

A: Any rules will have a future effective date so a reasonable interpretation of the law in the meantime should suffice. Obviously, it's better to have more definition....

Q: there seems to be several tax related items that are not showing as possible reversals through reconciliation.....why not?

A: We only had one hour to discuss this. Consider that anything tax related may be on the menu.

Q: There was mention of repeal of gender rating, but that's not currently how rating is structured - can you expand on that?

A: Marcy misspoke. She meant that there could be a repeal of rates which don't recognize gender.

Q: Would allowing subsidies outside of the exchange help to stabilize the individual market even if carriers do choose to leave the exchange?

A: Yes.

Q: Has either party advanced any further thought to cost containment and transparency in your meetings so far?

A: There is general agreement about these terms. Defining them is much more complicated.

Q: I see no information about any discussion about the cost drivers of Health Care. If this area is ignored then any replacement will fail just like the ACA has failed.

A: Cost drivers will hopefully be considered in any replacement plan.

Q: Does the actual question affect poll responses. I.e. does "repeal ACA" mean the same as "fix ACA" to most poll responders?

A: Any poll reflects the wording of the questions. We showed several polls from different sources to give you a flavor of public opinion.

Q: What are the insurance carriers looking at as preferred changes to open the market, for individuals?

A: They haven't been offering much more than general statements of policy. Certainly tightening of SEPs is one of their "asks."

Q: 1) Has anyone seen details of Rand Paul's plan? 2) If we go piecemeal is there any movement towards getting away



Compliance Corner Webinar:

Changes Coming in the New Year

January 19, 2017

from Jan 1 in the individual market and using a birthday as the renewal date?

A: I haven't seen his plan. There aren't any legislative details at this time. NAHU has called for using something like birthday to allow for better representation of individual interests.

Q: Can you elaborate on MLR and if carriers indicated whether or not they will bring back individual commissions for carriers that have eliminated them and if carriers have indicated if there would be any changes in Group commissions if MLR is repealed

A: A repeal of MLR may – or may not – have an impact on commissions. But, it hopefully would stabilize the market.

Q: The old COCC, certificate of CREDITABLE coverage cannot be used in its former format. I agree we need a document but the old COCC only assisted when pre ex was in place.

A: Yes. It could be used to show continuous coverage.

Q: Why not recommend complete elimination of the 1094 and 1095 reporting requirements?

A: We have done so with a recommendation for a simplified prospective reporting requirement.

Q: If you reduce the employer penalty to 0, does that effectively remove to offer of coverage to anyone working 130 hours -- and eliminate any need for tracking of measurement periods?

A: No.

Q: Can't the various regulation repeals be attached to separate budget bills as amendments?

A: It seems that there is the political will to address ACA repeal as one bill.

Q: When does NAHU expect the IRS to send out Employer Mandate Penalty notices for 2015 to ALEs? This was expected in the fall of 2016, but it hasn't happened yet.

A: This is a great question. Since late filers had until October, perhaps 1st question of 2017?

Q: On QSEHRA -- can it be for only 40 hour employees or do they have to use 30 hours to be an eligible employee?

A: There is no hours requirement in the law.

Q: Does the QSEHRA require a SBC Document?

A: No, it is not a health plan.



Compliance Corner Webinar:

Changes Coming in the New Year

January 19, 2017

Q: My understanding based on speaking to several TPAs is that employers who offer QSEHRAs must issue SPDs for the QSEHRA. Can you please confirm if this is correct?

A: I don't believe this to be the case as they are not deemed to be a health plan and therefore are not subject to all of the provisions of ERISA. But, rules may determine otherwise. It is definitely a good idea to develop some type of organizing/implementation document.

Q: Why isn't NAHU recommending repeal of PCORI fees?

A: We have not focused our efforts on this fee. It may be that it wasn't part of prior reconciliation efforts.

Q: Is there any chance that the Trump Administration will instruct the IRS to not collect Employer Mandate penalties for 2015 or 2016 even if repeal of the ACA is delayed?

A: Yes.

Q: Are there new penalty amounts for play or pay in 2017?

A: The A penalty is \$2,260 and the B penalty is \$3,390. This is up from 2016's \$2,160 and \$3,240, respectively.

Q: While cost may be higher in the individual market vs. the group market, especially from age 45 up, wouldn't the tax exclusion limit and the fact that there would be no HIPPA concerns, COBRA or State Continuation cost, ACA reporting concerns etc.... and the amount of time management now has to refocus on growing the business make the QSEHRA worth it.

A: This is a calculation that employers will have to make. The scope of coverage and network limitations may make individual coverage less attractive in many states.

Q: If allowed to buy health insurance across state lines, will the carriers be able to rate by zip code, or will you be able to buy the plan with rates from the state you are buying it from?

A: There is no legislative language on this. We don't see how a plan could not reflect the costs of medical care in the state where care is rendered.

Q: NY has a definition of a small group is groups under 100 and they don't allow groups under 100 to self insured would that be part of the changes States no longer allowed to make those types of restrictions to prevent companies to get the best possible healthcare at the best price.

A: It is likely that states will have more authority rather than less in a "replace" plan. Republican orthodoxy generally supports moving power to the states rather than the federal government.



Compliance Corner Webinar:

Changes Coming in the New Year

January 19, 2017

Q: There is a lot of talk about selling across state lines. My question is why? Each state has their own insurance commissioner and mandates. The Price proposal shows that the domicile state for the carrier will have jurisdiction. This is unfair competition as plans would not compare apples to apples.

A: We haven't seen any sale of state lines proposal that achieves worthwhile objectives of increasing competition and reducing insurance premiums, let alone health costs.

Q: What is NAHU's stand on purchasing policies 'across state lines?'

A: We haven't seen any sale of state lines proposal that achieves worthwhile objectives of increasing competition and reducing insurance premiums, let alone health costs.

Q: If the Republican's are successful in reconciliation, won't they still need the Democrats to help pass a replacement?

A: Yes.

Q: Have you heard of an employer actually getting an IRS bill for a Penalty A or B?

A: Letters have started to go out to employers stating that it appears they should have filed. But, no notice of any bills yet.

Q: I am hearing that carriers are not going to sell across state lines, what are you hearing?

A: The states that have allowed this have not seen any activity.

Q: Coverage across state lines would need to have extended Networks to provide coverage. Has that been addressed?

A: That is one of the issues that would have to be addressed.

Q: If purchasing across state lines is allowed, are you hearing anything regarding whether state laws would be applicable based on contract situs rather than carrier HQ situs? Obviously, there could be major issues in areas like state mandated benefits, tec.

A: We haven't seen any sale of state lines proposal that achieves worthwhile objectives of increasing competition and reducing insurance premiums, let alone health costs.

Q: Any chance the Trump administration can help dissolve the monopolies that the hospitals have created which has significantly increased healthcare costs. I know in Mass if a doctor does not join their hospital practice the hospital will not give the doctor admitting privileges.

A: This is not an issue that has been discussed.



Compliance Corner Webinar:

Changes Coming in the New Year

January 19, 2017

Q: Do you think there is any consideration for HSA to be allowed across all plans - not just HDHP plans?

A: The Republicans are very supportive of HSAs. Whether they would be expanded beyond HDHP plans is unknown.

Q: Will mini medical plans be considered again?

A: We don't know at this time.

Q: So what will happen is someone doesn't take healthcare and then gets sick how will they be covered?

A: The focus is likely to be on continuous coverage. That may mean that someone pays a higher premium if they don't have continuous coverage such as we've seen with Medicare.

Q: Can QSEHRA dollars be used for either premium reimbursement or eligible 231d expenses, with variance by employee?

A: The law speaks to 213(d) expenses and premiums. We don't have regulations yet that give more specificity than that.

Q: What is the status of voucher program for Medicare?

A: Nothing has happened on Medicare yet. This is an area that the President hasn't focused on but Congressional Republicans seem to want to pursue.

Q: If there is a reinstatement of the High Risk Pools would that be a Govt. funded /Subsidized block of business for both individual as wells group markets and would this replace or restructure the State Medicaid programs in any way or is that a separate subject.

A: High risk pools may be more of a reinsurance mechanism than a pool or block of business. It's early days....

Q: What is the forecast on the broker's role?

A: NAHU continues to advocate that brokers are important to the placement, selection and servicing of insurance.

Q: Can you elaborate on the associations for small groups and what that would do to the small group market?

A: Some states had great success with association business. Others did not. We will have to see what the proposals are and assess them at that time.