



Live from NAHU!

October 5, 2016

Q: Can you address the small business health care relief act (SBHRA), and how much that will affect brokers. Individual premiums can be reimbursed tax free if it is approved.

A: We are in discussion with members of Congress on this legislation. We have a neutral stance on the bill at this time. We have concerns regarding the instability in the individual market at this time and it is unclear how this bill would impact the market.

Q: Is CMS's push to for automatic transition to Medicare Advantage plans at 65 a tacit admission that these plans cost the government less money?

A: That's an interesting viewpoint. As you may know, Medicare Advantage rates are often controversial. In fact, these plans do not always cost less. However, there has been a big push from Republicans and a smaller group of Democrats to eliminate Med supplement plans that pay virtually everything not covered by Medicare. They cite statistics that show that people with 100% coverage consumer many more medical services. It is this statistic that compels them to think that the cost sharing associated with Medicare Advantage would lead to lower costs over time.

Q: Is it even possible for the Republicans to REPEAL the ACA without 60 votes in the Senate? What are examples of things they CAN change without 60 votes?

A: It would be highly unlikely that this could happen. The 60 votes threshold is the number of votes needed to end debate on a bill or "to invoke cloture." Revenue bills can pass with simple majority and this is the reason we see attempts to add things on to them. However, the items that can be added must be revenue related so the actual issues eligible to "ride" on the revenue bill are limited.

Q: Can a Trump administration rewrite regulations that are labeled a "Final Rule" (such as the Look-back Measurement Method Safe Harbor)? Or can they add another way to identify full-time employees that would be easier/loaded with loopholes?

A: A new administration can repeal any Executive Orders. Actual regulations must still relate to the underlying legislation they interpret, so they can be changed, but still must adhere to the language of the law passed.

Q: Is anything in the works for employer sponsored coverage? It is very expensive.

A: Health insurance is expensive because health care services are expensive. Some of the initiatives surrounding value based care and payment reform may help bend the cost curve. Other measures such as changing the definition of a full-time employee and modifying reporting rules would also decrease cost. And of course changes to any of the mandated benefits would bring down cost. For small employers, pending legislation to make modified community rating more flexible would help, as would modifications to the essential benefits package.

Q: With Clintons view toward expanding access for undocumented - does that include eligibility for subsidies?

A: The specifics of her policies remain unclear.

Q: Do either of them have a position on retaining the tax credits employers receive for offering benefits?

A: This is sure to be an issue irrespective of who is elected president. If you are referring to the small employer tax credits, this is part of the ACA and would have the most support in a Democrat administration. Relative to the tax deduction employers get, neither candidate would be in favor of taking that away. A bigger issue is the tax exclusion



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which benefits employees who receive employer paid benefits without being taxed on the value of the employer contribution. Republicans would like to cap the exclusion and some would like to do away with it altogether in exchange for a general tax credit for everyone regardless of whether they got coverage in the individual or employer market. This would be of significantly less value for most people who receive employer sponsored coverage today, unless they had very low incomes and were exempt from federal income tax.

Q: Is it projected that imported drugs from overseas will save money? Aren't most drugs US source and they will just adjust pricing accordingly to sales outside the country?

A: This is a hard issue to pin down as most people don't pay list price for drugs. However, the reason people want to import drugs from other countries is that other countries have significant price controls so the cost is less. The drug companies are required to sell to those countries at a lower cost, so theoretically, it would lower the acquisition cost here in the United States. However, the countries from which drugs would be imported are unlikely to have a sufficient quantity of drugs to completely support the U.S. population, so this would be an option that might be used by some but that would be unlikely to be used broadly.

Q: One issue on the polling has been that many people who have come out for Trump are not the usual people who are polled.

A: Interesting observation. The pundits and polling firms have had a difficult time with this election.

Q: When will true insurance principles be come back into play? You can't buy home or auto insurance when the house is smoking or after an accident and expect the insurance to pay. It's no different with one's health.

A: Elected officials and staffers need to understand this. We encourage members to visit their elected officials to help them understand how insurance works.

Q: Regarding the question of expanding health care access for the undocumented, has anyone done a cost evaluation if the undocumented did not get access to health care, what kind of impact will this impose on the industry, since hospitals would not be able to turn away patients, again we could see overcrowding at ER hospitals.

A: The undocumented get access to health care now. It is a factor in uncompensated care. As you suggest, care may be episodic and not at the most cost effective provider.

Q: Back in the 90's, during the Hillary Care scare, she was asked about the fate of tens of thousands of health agents who would become unemployed. Her answer was, "I think health insurance agents should go back to selling car insurance, or wherever they came from!" Is there any evidence to suggest that she has changed her opinion that agents are deplorable?

A: The role of the agents has become more understood as a result of the MLR and our efforts to remove agent commissions from that calculation. Also, the role that brokers have played in the implementation of the ACA is broadly recognized. That being said, she hasn't made any comments regarding brokers during this election cycle.

Q: Can you identify the states where the 66 competitive elections are for the house?

A: There are several groups that rate House/Senate election. Leading rankings include:

http://www.realclearpolitics.com/epolls/writeup/battle_for_the_house_of_representatives-51.html



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<http://rothenberggonzales.com/ratings/house>, <http://data.rollcall.com/electionguide/>,
<http://www.270towin.com/2016-house-election/>.

Q: What is the status of limiting the 90 day maximum on short term policies?

A: The rules have not been made final. It is not yet clear if the recent court case will cause rethinking on this. NAHU provided comments on this issue.

Q: Are we still trying to remove groups with less than 100FTE out of the Employer Mandate

A: There aren't any bills to this effect at this time. The greater and more recent effort was to keep groups with 50-99 employees out of the small group market.

Q: With many carriers eliminating agent compensation from the individual policy arena, what are the prospects of group-based brokers' compensation being reduced to the point of eliminating them altogether - Especially with major carrier mergers looming!

A: Brokers are looking at a variety of measures to shape their practices in this uncertain commission environment. One of the efforts occurring at the state level is to obtain the right to charge fees. However, the instability caused by adverse selection in the individual market and the heavy losses by insurers there is responsible for the commission cuts, carrier exits, higher premiums, etc. Adverse selection in the employer plan market is significantly less likely to occur so the results from market instability are less likely. However we must be particularly diligent in the small employer market since some ACA provisions could result in some level of destabilization if the market becomes too segmented.

Q: Could capping employer exclusion replace the Cadillac tax or essentially have the same outcome?

A: Yes, it could replace it, however, the big loser with capping the exclusion is not the employer, although they are somewhat affected, but rather individual employees who lose a significant tax benefit.

Q: What can be done about commissions for individual business both on and off exchange?

A: The commission issue is largely reflective of the turmoil in this market and the losses that the carriers are experiencing. As has always been the experience, when carriers want business again, they turn to brokers as the most economical distribution method. That being said, some brokers are finding that a fee-based practice removes the element of uncertainty about commissions.

Q: If the Cadillac tax is repealed they have to find the money to continue the funding of the ACA so isn't not giving employers the tax break on paying for employees health plan do the same in collecting taxes as the Cadillac tax was to do since 46% of the population was slated to be charged a Cadillac tax?

A: This is one of the arguments.

Q: Could the legislation to make COBRA be considered creditable coverage for Medicare be construed as not employer-friendly? Because it could result in more people hanging onto COBRA coverage for longer rather than transitioning to Medicare? Or do we think it really doesn't make much of a difference with respect to employer costs?

A: The vast majority of people, when faced with paying 100% of a generous employer sponsored plan, look to other options. So, the people who do take COBRA do so for specific reason usually related to continuity of care. This just



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eliminates their being penalized for this decision.

Q: There are issues when doing NAHU training and the CMS Enterprise Portal. Completing NAHU training does not update the CMS Enterprise portal correctly.

A: This will be shared with our professional development experts.

Q: In oxford webinar this morning, they stated the pharmacy coverage would no longer go towards the MOOP. They said the pharmacy is now ancillary;

A: I don't know what they mean by this. If you have additional information please share.

Q: Regarding drug pricing, the costs are going through the roof. Why not have a bill in Congress to force the drug companies to price their medications in the US based on the average price they charge the rest of the world? We pay a higher price for drugs so the rest of the world doesn't. Makes no sense.

A: Thank you for the suggestion. When looking at controlling the cost of drugs or frankly any very expensive service, it is very easy to want to impose price controls. Historically, price controls in the U.S. have had a troubled history. What we need to find is a way to have reasonable limits while ensuring that we still have the research and innovation we need to develop the amazing new drugs we've seen in the past few years. The answer as to how to address that will be difficult but is likely to be a subject of high importance in the immediate future.

Q: HHS has told the agents in our region (Missouri) on a regional call that members of on exchange plans that are being non-renewed will be cross walked to alternative plans with alternative carriers at annual open enrollment, but the agent information will not come with them. Is there anything that can be done about this?

A: We are in discussions with CMS on this issue.

Q: I was told that the CMS Enterprise portal is only updated twice a month, so if there is a problem with my training, I may not know it until Open Enrollment.

A: If you have taken your training through NAHU, we can check on your status. Sometimes the required agreements haven't been signed which holds up the registration.

Q: Any update on HHS limiting STM plans to 3 months and WHEN? Devastating to the middle class if pushed through.

A: NAHU responded with [comments](#) on this issue.

Q: Do you expect that 1094/1095 reporting to roll down to small employers in the future?

A: Not at this time.

Q: Will non-discrimination testing be repealed?

A: There aren't any proposals to do so. Also, if you are referring to the non-discrimination rules that have not been issued, they may still come out before the end of the year. Otherwise, they will roll to the next administration for a decision on the next action.



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Q: If commissions MUST be listed when carriers submit to their local Dept of Insurance, HOW can carriers make a midyear change with no notification? Can't NAHU get involved in those illegal practices?

A: NAHU has asked CMS about this practice. Some state associations have had success involving their state's insurance commissioner on this topic.

Q: Can anything be done about allowing husband and wife policies to be sold as groups when they own a business?

A: Not as the ACA currently stands.

Q: I was told that health brokers cannot charge our clients

A: That depends on your state licensing law. Many states allow it under prescribed circumstances.

Q: When will the Professional Development piece regarding consulting fees be released?

A: This is coming together as quickly as possible.