

Opportunities for Employees to Purchase Exchange Coverage

The Patient Protection and Affordable Care Act (PPACA) is expected to provide health coverage to 32 million more people in the United States; about half of those will be covered through the health insurance exchanges created by the law. The exchanges will mainly serve individuals who purchase coverage on the individual market and small businesses interested in purchasing coverage for their employees. However, employees of larger businesses will also have opportunities to purchase coverage through the exchanges on their own when certain criteria are met. Employees will be able to use their state's exchange without going through their employer if 1) the employer does not provide adequate coverage or 2) the employer provides coverage but the cost to the employee falls in a specified range.

The exchanges are designed to make it easier to compare and purchase health coverage for those few choices in the current market. Individuals who purchase through the exchanges are also eligible for premium tax credits and cost-sharing assistance to help make coverage more affordable, if their income falls within a certain range. But workers employed by an employer who offers coverage outside the exchanges are generally neither eligible to buy a policy in the exchange, nor to receive the associated financial assistance. Yet many of these workers face challenges paying for the insurance their employers provide them.

PPACA allows some of these workers to opt out of their employer coverage and purchase through the exchanges. The law defines "minimum essential coverage" and makes employees to whom it is not available at an affordable cost eligible for exchange coverage as well as premium and cost-sharing subsidies.

Under the law, an employer's offer of coverage can be considered inadequate for two reasons — if it either does not provide a sufficient level of coverage or is not affordable to the employee. To qualify on the level of coverage, a plan must cover at least 60% of the cost of benefits, i.e., have an actuarial value of 60%. To be considered affordable, the employee's contribution to the cost of coverage must not exceed 9.5% of the employee's household income — (note that the income of other workers in the employee's household must be included in this calculation).¹ If the coverage offered by an employer fails to meet either of these criteria, the employee may purchase coverage on the exchange. Provided the worker meets the other income eligibility standards, he or she would receive subsidies for the cost of premiums and cost-sharing.²

“Free Choice” Vouchers

Even when an employer offers adequate coverage, certain employees can still access coverage through the exchanges if they choose. These are workers who receive “free choice vouchers” from their employers. Employers are required to offer free choice vouchers to workers who earn less than 400% of the federal poverty level and whose contribution to the employer's coverage plan

1 Patient Protection and Affordable Care Act (PPACA) § 1401(a), adding new Internal Revenue Code (IRC) § 36B(c)(2)(C).

2 Other eligibility standards for subsidies include income and legal residency. See Subsidies Brief (hyperlink to subsidies brief). When an employee qualifies for subsidies because of an inadequate coverage offer, the employer faces tax penalties.

would fall in a certain range. If the employee would be required to pay between 8 and 9.8 percent of his or her household income for the employer-sponsored coverage, the employer must offer the worker a free choice voucher.³

A worker who is offered a voucher can either participate in the employer plan or use the voucher to purchase coverage through an exchange. The voucher, in effect, allows the employee to take the employer's contribution toward coverage and use it for a potentially more affordable exchange plan. The amount of the voucher is equal to the employer's share of the premium in the employer plan — if multiple plans are offered, the most generous employer contribution sets the amount of the voucher. The employer must provide its share of self-only or dependent coverage at the worker's choice. If the amount of the voucher exceeds the cost of the premium for the plan the worker buys through the exchange, the excess is to be paid to the employee. Individuals or families who use free choice vouchers to pay for exchange coverage will not be eligible for subsidies.⁴

How Will the Free Choice Vouchers Work?

Some employers offer health insurance options that their employees may find unaffordable. Free choice vouchers allow some employees to use their employer's health insurance contribution for exchange plans, which may offer better value for the worker.

The vouchers will be available for workers with household income below 400% of the federal poverty level and whose contribution to the health plan offered by their employer would take up between 8 and 9.8 percent of household income.

For instance, Janice makes \$36,000 annually and her husband Hector earns \$12,000 through part-time work, but is not offered health coverage. The total family income is \$48,000 and the family has two children. Janice's employer offers health coverage and would contribute \$550 each month toward the total premium of \$900 for family coverage. That leaves Janice to pay \$350 a month, or 8.75% of her and Hector's income. Janice would be eligible for a free choice voucher worth \$550 a month, equal to her employer's contribution. In her state's exchange, she finds a plan that costs \$650 a month for family coverage. By using the voucher to purchase this exchange plan, Janice can access coverage for her family for \$100 a month, rather than paying the \$350 it would take to participate in her employer's plan.

3 PPACA § 10108.

4 PPACA § 10108(h)(1).

Issues to Consider

Possible Employer “Dumping” of Sicker Employees

It is unclear how employers will respond over time to the changing incentives and requirements under PPACA. With the average family premium now \$13,770/year and expected to rise to \$23,842/year by 2014, employers face considerable pressures to control the growth in health care costs.⁵ Many are responding in positive ways, by creating workplace wellness programs and encouraging preventive care. However, under PPACA, some employers could have incentives to engage in less positive behaviors, such as by redesigning their health benefits and cost-sharing packages to encourage less-healthy employees to reject their employer’s coverage and seek a plan on the exchange. By doing so, employers would be able to maintain a healthier risk pool and thereby lower their costs. But such behavior would also result in the exchanges taking on more high-cost enrollees, which would cause adverse selection and higher premiums for exchange participants. Employers who do engage in “dumping” sicker employees onto the exchanges would be subject to penalties if any of those employees are eligible for premium or cost-sharing subsidies. But it is not clear at this time how much of a disincentive those penalties will be for most employers. Employers’ responses to the new health care marketplace under PPACA will need to be closely monitored to ensure the long-term viability of the exchanges and the accompanying health insurance reforms.

Discrimination under the Employer Mandate

While PPACA does mandate large employers to provide health insurance coverage to their employees, it does impose penalties on employers when their employees receive federal premium subsidies in the exchanges. This is a very important provision designed to guard against any erosion of employer-sponsored coverage, which remains the primary source of health insurance for 157 million non-elderly Americans. However, the requirement could also inhibit employers from hiring workers from low-income families.

The employer penalty provisions require employers who do not offer health coverage to pay a penalty for low- and moderate income individuals who receive subsidies to purchase coverage in a health insurance exchange. For companies that do offer coverage but that coverage does not meet the affordability test described above, a similar penalty is imposed. But employers would not pay anything for employees in the exchanges who do not receive subsidies because their family incomes are higher.

Under this provision, employers could have incentives to avoid hiring people who might qualify for subsidies, and instead hire those who would not qualify for subsidies. In particular, this could result in discrimination against low-income parents with children, because these families are more likely to meet the eligibility requirements for premium and cost-sharing subsidies.⁶

5 Kaiser Family Foundation, “Employer Health Benefits Annual Survey 2010,” Sept. 2, 2010, available at <http://ehbs.kff.org/>. See also Commonwealth Fund, “Paying the Price: How Health Insurance Premiums Are Eating Up Middle-Class Incomes--State Health Insurance Premium Trends and the Potential of National Reform,” Aug. 20, 2009, available at <http://www.commonwealthfund.org/Content/Publications/Data-Briefs/2009/Aug/Paying-the-Price-How-Health-Insurance-Premiums-Are-Eating-Up-Middle-Class-Incomes.aspx>.

6 Center on Budget and Policy Priorities, “Finance Committee Makes Flawed Employer Requirement in Health Reform Bill Still More Problematic”, Oct. 9, 2009, available at <http://www.cbpp.org/cms/index.cfm?fa=view&id=2921>.

Conclusion

The health insurance exchanges that each state will create under PPACA are intended to provide access to coverage for those who have trouble today in finding appropriate plans or affording premiums. While employer-sponsored insurance meets the needs of many people who are employed, the new law makes sure that if employer-offered coverage is inadequate, employees have the chance to utilize the exchanges and coverage subsidies. Through the free choice voucher, it also provides a way for workers to find more affordable plans if their employer-sponsored options would eat up a large percentage of income.

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