State of Confusion

Employees will be bombarded from all sides with information about the Affordable Care Act. It's crucial that HR has a plan in place to ensure they're properly informed.

By Joel Berg

Employers cheered in early July when the Obama administration delayed the deadline for offering health insurance under the Affordable Care Act, the sweeping health insurance law passed in 2010.

After digesting the news, Jeffrey Weiner went back to work. He was trying to pin down quotes for the insurance his company was hoping to offer this fall as a replacement for its mini-med plan, a type of plan offering limited coverage that does not comply with the ACA.

The company's new coverage had been slated to kick in this October, three months ahead of the previous compliance deadline of Jan. 1, says Weiner, global vice president of human resources at The Results Cos. Based in Fort Lauderdale, Fla., the company operates customer-contact centers around the world and has about 1,900 employees at nine locations in the United States. About half meet the hourly requirements for offering coverage under the ACA, Weiner says.

As of July, Results planned on sticking to its original schedule, Weiner says. Employees already had been told their insurance options were changing. And it's been challenging enough explaining that employees aren't forced to buy coverage, that the replacement for the mini-med plan likely will cost more, and that the company is not shedding jobs or cutting hours in a bid to offset new expenses, Weiner says.

"The rumors spread faster than my people can address questions," he says. "So I think that's why it's so important to be proactive."

Indeed, the evolving nature of the health-insurance law makes clear communication an imperative for employers this fall, consultants say. The delay in the employer mandate, announced a few days before the Fourth of July, was the latest twist in a process that has taken many turns over the last three years, from the U.S. Supreme Court to the presidential campaign trail.

"People already are dazed and confused with this law, and the government is clearly sending mixed messages," says Kevin Quinn, a partner in the benefits-consulting arm of accounting firm CohnReznick in Garden City, N.Y.

Enacted in 2010, the law aims to broaden insurance coverage by requiring employers of 50 or more people to offer policies that meet federal requirements for affordability and minimum benefits. Individuals and small businesses, meanwhile, will be able to shop for insurance starting this fall in the new health exchanges.
operated at the state and federal level.

It's unclear whether there will be further changes or delays to the law. Republicans in Congress have been pressing for a delay in the individual mandate to buy insurance, which is scheduled to take effect in 2014.

As they ramp up communications about the law this fall, HR leaders should consider where people have been getting their information to date and what they already know -- which is, according to one recent survey, surprisingly little.

**An "Advertising Blitz"

The greatest share of respondents -- four in 10 -- say they have relied on conversations with friends and family members, according to the *Kaiser Health Tracking Survey*, conducted in June by the Menlo Park, Calif.-based Kaiser Family Foundation. Newspapers, radio and online news were cited as a source by 36 percent of survey respondents, while 30 percent cited cable TV news. Employers, named by 11 percent, were tied with doctors and insurance companies.

"I think there's really an opportunity for employers here," says Claudia Deane, associate director for public opinion and survey research at the KFF.

The opportunity exists even for employers that historically have not offered health insurance and are leaning toward having their employees turn to the public exchanges for coverage. "We know people, even uninsured people, say that insurance is something they'd like to have," Deane says. "So, to the extent that you're an employer and could hook them up with an affordable option, that seems like it would garner good will."

After the delay was announced this summer, some companies moved ahead as planned, tweaking benefits to meet the demands of the Affordable Care Act and continuing outreach to employees.

They can use the next year to get a better sense of how many employees end up taking insurance and how many end up qualifying for coverage, based on the law's definition of a full-time employee: someone who works 30 hours or more a week, or a minimum of 130 hours a month.

"We're suggesting, 'Don't get lulled to sleep. Take advantage of this opportunity to make sure who's eligible for benefits,' " says Quinn.

Other companies likely will use the delay to put off adding health insurance. But whatever route they choose, companies will be competing with an advertising blitz through the fall and early winter. Insurance companies will be on the hunt for new individual and small-business customers, while governments and nonprofits will be looking to alert the uninsured about the exchanges and subsidies. Opponents of the new law, meanwhile, have continued airing ads against it. The ads will target people who are not offered employer-based coverage, but they will reach everyone's eyes and ears, complicating life for employers.

During open enrollment, employers traditionally had to focus only on describing their own health plans, consultants say. Now, they'll have to address a host of questions about insurance exchanges, the individual
mandate to buy insurance and other features of the new law.

The only communication requirement is for all employers to send a notice by Oct. 1 informing employees that the insurance exchanges are open. A model notice is available on the Department of Labor website. But few HR experts believe the notice alone will be enough, with some arguing it could create even more chaos, regardless of whether employers plan to offer coverage.

"If they just rely on the notice, they are going to have very confused people and very frustrated HR groups and call centers," says Jennifer Benz, CEO of Benz Communications, a San Francisco-based employee-benefits consulting firm. "So they really have to get ahead of that notice and give people a bigger context for what's going on."

The context will vary depending on an employer's approach to benefits, but it should not touch on the politics of the law, known as Obamacare, Benz says. "It needs to be neutral and focused on the employees, not someone's political leaning."

Whatever their opinions, employees are likely to have similar questions: Should I go to the exchange? Am I eligible for subsidies? What about my family? Would it be better just to pay the penalty for not having coverage?

If a company is offering affordable insurance that allows people to meet the individual mandate, it will want to highlight that fact, Benz says. "Few people fully understand the subsidies their employers have been offering," she adds. "The ACA gives employers a chance to explain."

Health-insurance policies are already offered for sale at Costco, and Walgreens is partnering with the Blue Cross and Blue Shield Association to launch a campaign in all 8,500 of its stores to advertise health plans that are sold via the exchanges.

"People are curious, and when they start seeing health insurance available when they go visit Costco or their local pharmacy, they're going to look at what's out there," Benz says. "It only takes a few to kind of cause some commotion and create a lot of confusion and a lot of hassles."

**Making It Stick**

Employers that continue to offer coverage deemed affordable under the ACA should make it clear that their employees likely won't be eligible for subsidies, regardless of what they hear on TV or from friends and family, consultants say.

Given the expected barrage of outside advertising, companies may have to repeat the message to ensure it sticks, says Anita Doncaster, national sales and strategy leader for Aon Hewitt Communication, a practice in the consulting business of Aon Hewitt.

"This is not a one-and-done deal," she says. "You really do need to drive that point home quite a few times."

A lack of detailed plans shouldn't stop employers from communicating, adds Jackie Cuthbert, an Atlanta-based
principal in the workforce-communication practice of consulting firm Mercer.

"I'm going to get packages in my mail at home from insurance companies that are on the exchange that say, 'Pick me, pick me,' " she says. "And if I am not really sure of what my employer is doing, then I may end up paying more attention to that stuff than I need to."

It will take only one employee mistakenly qualifying for a subsidy to create headaches, says Mike Thompson, a principal in the health benefits practice at New York-based PwC.

Although the exact mechanics are still being worked out, Thompson says, the exchanges will try to verify with companies whether their employees were offered affordable coverage.

"The worst case is that there's evidence that the employer systematically didn't offer coverage to employees, and that might trigger further investigation by the Internal Revenue Service or the exchange itself," he says. "So again, all of that is likely to cause some level of confusion when the exchange is launched, especially for very large employers."

Because of the delay in implementing the employer mandate, employers won't pay a penalty in 2014 if an employee winds up snagging a subsidy. But if it happens in 2015, the employer could be hit with a per-employee fine of $3,000. The company also risks looking bad if an employee loses the subsidy and has to pay more for coverage.

The risk is especially acute for companies that hold off on offering affordable coverage until 2015, says Kate Ulrich Saracene, counsel at the law firm Nixon Peabody in Rochester, N.Y. That group includes hotels, restaurants, retailers and other businesses that employ largely part-time, lower-wage workers who might hover around the 30-hour-per-week threshold.

Those workers and their families may buy subsidized coverage on the exchanges in 2014, Saracene says. But they will lose the subsidies if their employers decide to offer coverage in 2015. And, depending on what the employer is offering, family members also may lose their subsidies.

"You could have some very upset employees in that circumstance," says Saracene, who has worked in HR at Xerox Corp.

Saracene recommends that employers give out as much information as they can about their plans for the next couple of years, so employees can make decisions about 2014 and beyond. That way, people will know whether their stop on the exchange is temporary.

Employers also should offer some basic information about the exchanges, the subsidies and the individual mandate without delving too deeply into the details, she says.

"Employers probably want to make sure there are proper disclosures -- that this is informational only and that the government rules prevail and you should do your own research with the exchange -- because people always look for somebody to blame if they don't like the outcome," Saracene says.
Some employees -- such as young people who have not traditionally bought health insurance -- may decide that even minimal coverage is too costly, especially since the fine for not having insurance in 2014 will only be $95, says Ross Krasnow, a vice president who specializes in health and welfare for the brokerage and consulting firm Lockton Cos. in New York.

As a result, employers should be prepared to discuss every potential choice, including forgoing coverage altogether, Krasnow says.

"If they don't start now, who knows what's going to happen," he says. "I'm sure there's going to be significant changes. We just need to make sure that we're giving our employees the ammunition, and also giving them the confidence that they're with an employer that's giving them all their options."

See also:


Sep 6, 2013
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