Health Care Strategy in a Post-Election World
Today’s Speakers

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Today’s Agenda

- Election Results (as we know them) and Implications for Health Reform
- The Last Six Months: Twists and Turns
- Looking Ahead
- Q&A
Election Results (as we know them) and Implications for Health Reform
Seeing “Red”: Another Historic Election

111th Congress: Senate
- 57 Dem.
- 41 GOP
- 2 Ind.

111th Congress: House
- 255 Dem.
- 178 GOP
- 2 Vacant

112th Congress: Senate
- 50 Dem.
- 46 GOP
- 2 Undec.

112th Congress: House
- 186 Dem.
- 239 GOP
- 10 Undec.
Political Environment Post-Elections: Impact

Short Term: Early Indicators of New Climate
- November 15 lame duck session; another one tentatively in December
- President Obama has invited Republican & Democratic Leaders to the White House on November 18 and newly elected governors on December 2
- Biggest 2010 issue is extension of President Bush’s tax cuts, and for whom
- Also what other issues a large year-end bill may carry with it? Medicare “doc” fix
- All bills not passed this year fall away; watch for reintroductions in new Congress

Longer Term
- Set the political stage for 2012 presidential elections
  - And degree of bipartisan cooperation -- or not -- on health care issues
- Senate: Both parties lack needed 60 votes; moderates have leverage
- House: Intense partisan battles
- Health care will be a top priority, with repeal a stated Republican objective
  - Expect House votes on repeal in new Congress
Implications for Health Reform Implementation

Yet odds are heavily against outright repeal of health reform

- Repeal would add to federal deficit unless offset by other changes, per CBO
- Senate is the graveyard of many House-passed bills
- If passed, President will veto it, so no repeal before 2013, and then only if not re-elected
  - Note: After big mid-term power shift in 1994, President Clinton won re-election in 1996
- Advocates of repeal lack sufficient votes to override a presidential veto
  - But House Republicans can influence guidance/regulations, hold oversight hearings, threaten to rescind final regulations (also subject to presidential veto) and slow down implementation funding
- Longer it takes, the harder outright repeal becomes
  - Public is closely divided and often likes specifics; more benefits will kick in, or be in sight

President has leverage over compromises re: more targeted changes

- Seniors’ concerns need to be addressed in some way by both parties
  - Of 24% of voters age 65+, 57% voted Republican, 41% voted Democrat
- Other rifle-shot changes and/or “tweaks” or improvements affecting compliance
  - E.g., scaling back expanded 1099 reporting
Implications for Health Reform Implementation

Federal implementation for provisions now in effect is mainly in place
- Regulatory framework is nearly complete for the 2011 plan year (interim final rules)
- Final regulations to be published beginning in January 2011
- Other helpful guidance in the meantime; more before year-end

Major efforts underway to develop rules for 2014 health exchanges
- Both state exchanges and federal exchange where states don’t set one up

Strategic conclusions
- Higher post-election uncertainty at federal and state levels
- Sharpens even more the need for employers to focus on strategies to better manage future cost increases
  - And on careful compliance, tracking all the upcoming twist and turns
The Last Six Months: Twists & Turns
The Last Six Months: Twists and Turns

Summer of Health Care Regulations

- Early Retiree Reinsurance Program
- Interim Final Rule on Patient Protections, Annual/Lifetime Limits, Dependent Coverage Extensions
- Interim Final Rule on Grandfather Status
- Interim Final Rule Implementing “Patient’s Bill of Rights”
- Interim Final Rule on Coverage of Preventive Health Services
- Interim Final Rule on Health Care Claims and Appeals and External Review Processes
- Constitutional Challenges
- State Health Care Exchange Legislation and Operation
The Last Six Months: Twists and Turns

Constitutional Challenges

- More than 20 state attorneys general have filed suit against health care reform law
- Most significant challenge argues that individual mandate to purchase health insurance is unconstitutional
  - Violates Commerce Clause of the Constitution (Article I, Section 8)
- States also argue that requiring state government to set up insurance exchanges is unconstitutional intrusion on state powers
- Historically, courts are reluctant to overturn acts of the political branches of government
  - Courts usually defer to Congress if there is a modestly respectable argument that an act is Constitutional
- Lawsuits will take years to wind their way through the courts
  - Compliance strategies remain necessary, since law is presumed valid in the absence of a contrary ruling by a court
# Insurance Exchanges

## Features

- State-based marketplace for buyers and sellers of health insurance
- Operational in 2014 for uninsured individuals and ERs with <50EE
- Family of 4 earning less than $88,000 is eligible for subsidized coverage when purchasing in the Exchange
- Federal funding to states to design Exchange but must be self-sufficient by 2016

## Key Challenges

- Reforms such as guaranteed issue, guaranteed renewal, 3:1 age banding & insurance market reforms will drive premiums higher
- Which carriers will participate in each state Exchange?
- Weak individual mandate with modest penalties for not purchasing health insurance
- Use of traditional health plans such as PPOs and HMOs will not result in lower costs under the Exchange
- Only insured medical products – self-funding not permitted
Strategic Options for State Exchanges

California Exchange
- Certifying health plans as qualified plans
- Process for eligibility, enrollment, and disenrollment in the Exchange
- Assigning a rating to each qualified health plan
- Eligibility and enrollment in public health care programs (e.g., Medi-Cal)
- Longer term objective to define plan offerings and leverage a reduced number of Exchange plans

Utah Exchange
- Focus on marketplace competition instead of leverage for re-design
- Employee coverage is portable
- Same underwriting and premiums for Exchange and non-Exchange plans
- Defined Contribution approach
- Risk adjustment process to address enrollment of members with high health risk
- Initial focus on uninsured and <50 EE market
Insurance Exchanges—Implications for Plan Sponsors

Exchange health plans options will vary from state to state and carriers will selectively participate state by state

- May increase administrative burden on employers with multi state locations

Carriers must develop new health products (replacing traditional plans) to be successful in demanding Exchange environment

- Premium trends may increase above current levels

Some employers in select industries with high employee turnover may consider dropping their group health coverage in 2014

Initial proposed regulations governing state exchanges are expected in Q1 2011
Independent Payment Advisory Board

- May be the key control feature in HCR law-effective in 2014
- Focus of Board is fee and payment reforms to bring Medicare spending in line with spending targets. Cannot modify Medicare eligibility or benefits
- 15 person full time Board serving 6 year terms with potential re-appointment
- Board’s recommendations become effective if approved or not voted on by Congress; Recommendation also become effective if Congress disapproves but the President vetoes action but Congress lacks 2/3 to override veto
- Board can make challenging decisions on controlling Medicare costs that Congress has difficulty making for political reasons
- Board decisions impact Medicare fees and spending but will likely be embraced by private sector
Medical Loss Ratio (MLR)

- Affects insured medical plans beginning in 2011
- Requires carriers in the individual and group market to devote 80% and 85% respectively to claims payment
- MLRs lower than 80% for individual and 85% for group coverage must be rebated to enrollees
- MLR regulations are still being finalized but impact of MLR may drive more small employers to consider self funding group medical coverage
- Calculation of ratio is based on:
  - Numerator is total claims + funds spent on costs for quality of care program
  - Denominator is earned premiums less state and federal taxes and licensing/regulatory fees
  - Items excluded from calculation include retro & concurrent UR, fraud prevention, provider credentialing, network costs, and accreditation fees
Looking Ahead
Looking Ahead

- The employer-sponsored system will endure
  - The budget depends on it
  - The penalties will ensure it
- Regardless of the politics, health care will stay on the legislative agenda—forever
- Employer health care costs will rise 60% in the next five years on a “stand still” basis
- By 2015, employer-sponsored retiree medical plans will cease to exist (except for some grandfathered and collectively bargained arrangements)
- Employers need a clearly defined strategy to manage cost and employee health

The legislation should guide your strategy, but should not govern your strategy
Two Concurrent Paths…

What has to be done and when?

What is our long-term plan?
...Leading to a Fork in the Road

Down either path, employers have a persistent need to have a workforce that is healthy, present, and productive; that is imperative for all businesses.

» Opt OUT

- Monetize subsidy
- Deal with noise
- Send employees shopping at the private exchanges

» Focus on OUTcomes

- Simplify designs
- Earn better coverage
- Follow “house money/house rules”

Communication  Design  Administration
What Does “Getting Out” Really Look Like?

The Movement from DB to DC

Delivering Health Care Benefits
- Very Involved
- Not Involved
- Group
- Individual

Paying for Health Care Benefits
- Hidden Subsidy
- Total Rewards
- HRA Deposit
- Integrated Hub

Encouraging Health
- Siloed Programs
- 2010
- 2014
- 2017

Staying In: Areas of Focus

- Promote Intelligent Decisions
  “Responsible and Accountable”

- Engage Participants
  “Educate, Support, and Change Behavior”

- Reduce Unnecessary Expense
  “Drive out waste”

- Improve Health Outcomes
  “Identify, intervene, and measure”
Where Can I Find Out More?

Aon Hewitt’s Health Care Reform Microsites are a great resource: www.aon.com/healthcarereform or www.hewitt.com/healthcarereform

- Weekly briefings
- Webinar recordings
- Regularly updated FAQs
- Survey findings
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