

1 Michigan Dental Association

2
3 **EMPLOYEE BENEFITS ADVISORY COMMITTEE**

4 June 15, 2015

5 MDA Central Office

6
7
8 **Present**

9 Joanne Dawley, DDS, Chair

10 Mark Johnston, DDS, Member

11 Dale Nester, DDS, Member

12 Michele Tulak-Gorecki, DDS, Member

13 Karen Burgess, MBA, CAE, Member

14 Craig Start, MBA, president, MDIAFG

15 Michelle Nichols-Cruz, Board and House Administrator

16
17 **CALL TO ORDER**

18 The meeting was called to order at 9:10 am.

19
20 **DISCUSSION AND RECOMMENDATION REGARDING MDA/IFG HEALTH**
21 **INSURANCE BENEFIT**

22 Every state in the U.S. currently defines their “small group” market as 50 or less employees and
23 their “large group” market as 51 or more employees. A little-publicized clause in the Affordable
24 Care Act takes this decision out of the state’s hands and requires that all groups of 50 to 100 be
25 moved to the small group market at their first renewal after January 1, 2016. In March of 2014
26 due to controversy and uncertainty about this clause of the ACA the Obama administration
27 issued a new “transitional” policy that allowed impacted companies/plans to delay the potentially
28 negative impact of a move to the small group market. Attached is a summary of the transitional
29 policy change that was provided at the time by MDA’s Washington DC based attorney, Chris
30 Condeluci. This document summarizes the issue at hand. The areas boxed are directly related to
31 this issue.

32
33 This issue has serious negative repercussions to the MDA staff health plan as MDA is a 50 to
34 100 size group. Consultants, insurance companies and the National Association of Health
35 Underwriters all agree that the change can have a serious negative impact on 50 to 100 size
36 employers. It has gotten to the point that bi-partisan legislation has been introduced seeking to
37 eliminate this clause in the ACA. Attached are recent Wall Street Journal and NAHU articles
38 that summarize some of the issues.

39
40 In addition to the repercussions listed in the articles MDIAFG staff is aware of the following
41 negative consequences to MDA/IFG employees if MDA has to move to the small group market.

- 42
43
- 44 • Age rating will occur. Each employee and their family members will each have a rate (so
45 older employees will increase and younger employees may decrease). Those with larger
46 families will increase.

- 47 • Employer contributions to the HSA will not be allowed
- 48
- 49 • Medical will go from 100% covered after deductible to 80% after deductible
- 50
- 51 • Out of pocket limits will increase
- 52
- 53 • Pediatric dental will be forced on all employees who have kids under age 19
- 54
- 55 • Pediatric Vision will also be added to the policy for all who have kids under 19
- 56
- 57 • Prescription coverage will change form a 3 tier copay \$5/\$25/\$50 to 5 tiers \$10/\$40/ \$80/
58 15%(no more than \$150)/ 25% (no more than \$300)
- 59
- 60 • The drug formulary will change from custom formulary to custom select formulary in
61 essence reducing the amount of prescriptions available and adding a new step therapy
62 component
- 63

64 As a result, insurance companies like BCBSM are allowing its insureds to take advantage of the
65 transitional policy outlined in Chris Condeluci's memo. This would allow the MDA health plan
66 to escape those onerous repercussions until October 1, 2017. The hope is that sometime between
67 now and then that common sense will prevail and a permanent fix will be enacted by Congress.
68 If this does not occur, at least MDA has delayed the repercussions further into the future.

69
70 EBAC reviewed the following options:

71
72 *Option 1*

73 The plan currently renews on December 1, 2015. This will be a normal renewal. If MDA does
74 nothing then it is locked into place with the current benefits and on December 1, 2016 MDA will
75 be classified as small group and will need to choose new plan options.

76
77 *Option 2*

78 The plan currently renews on December 1, 2015. MDA informs Blue Cross (no later than July 1,
79 2015) that it would like to move its renewal to October 1, 2015 (this will mean the rates will
80 increase 2 months earlier than they do now). MDA would renew as a large group in 2015 and
81 again in 2016. MDA is unable to make any plan changes after July 1, 2015 and will see a rate
82 increase no higher than 9.9% in 2016 per BCBS. This option allows MDA to keep the large
83 group status until October 1, 2017 at which time MDA would have to move to small group and
84 take option 1 end results if the legislation being submitted to have the definition of large group
85 redefined back to 51+ is not passed.

86
87 Both of these options involve keeping the current large group plan 1 more year (It is just a matter
88 of if our rates change on October 1 or December 1). MDA will not know what that rate increase
89 is until after June 20th. However, staff has been seeing all increases come in at less than 10% and
90 the vast majority at less than 5%.

91
92 The rate repercussions of moving to a small group will not be known until the renewal next year.

93
94 After discussion the committee believes that it is correct to choose Option 2 and keep the
95 remaining plan for two more years. The only risk involved is if the government takes action on
96 the size of a small group and enhances the plan, the MDA would be locked into the current plan
97 for two years. The committee believes that this risk is unlikely and the prudent thing to do is to
98 take the action to renew early.
99

100 The committee also discussed rates. Expectations are that rate increases effective October 1,
101 2015 will be around 5%, although this is not guaranteed. It is expected that the rate increase will
102 be confirmed in the next two to three weeks. As noted above, BCBS has committed to keeping
103 rates beginning October 1, 2016 to an increase of 9.9% or less. The committee is aware that if
104 the rate increase for 2015 comes in over 10%, it has the option to keep the current plan one more
105 year and then move to one of the new plans. If this occurs, the committee will meet to determine
106 its next course of action.
107

108 Current policy on making changes to the MDA/IFG health plan reads as follows:
109

110 Resolution 14-610

111 Resolved, that the Employee Benefits Advisory Committee has the authority to
112 make changes to the MDA/IFG health plan provided the cost does not exceed the
113 amount of the proposed rate increase received each November from Blue Cross.
114

115 Due to the fact that a decision had to be made prior to July 1, the committee adopted the
116 following resolution:
117

118 **1-615** Resolved, that the Employee Benefits Advisory Committee (EBAC) approves moving the
119 renewal date for the MDA and MDAIFG Employee Health Plan from December 1 to
120 October 1 of each year starting October 1, 2015, and be it further
121

122 Resolved, that the MDA Executive Director and IFG President have the authority to
123 make changes to the MDA/IFG health plan provided the cost does not exceed a 10% rate
124 increase effective October 1, 2015.
125

126 **RATIO ANALYSIS**

127 MDA produces an operating ratio analysis annually. At its August 2014 meeting, the committee
128 reviewed the 2013 ratio analysis figures for areas that have been identified as ones MDA wishes
129 to benchmark. The committee is aware that the American Society of Association Executives
130 publishes its analysis every four years with the next survey published in 2016.
131

132 The committee agreed that no ratio report analysis needs to be provided at its August meeting as
133 there will be no benchmark information to compare.
134

135 **AUGUST MEETING DATE**

136 The next meeting of the committee will be held on Monday, August 17, 2015 at 3:00 pm.
137

138 **ADJOURNMENT**

139 The meeting was adjourned at 9:44 am.
140
141
142 Joanne Dawley, DDS
143 Chair
144
145

Craig Start

From: Condeluci, Christopher E. <CECondeluci@Venable.com>
Sent: Wednesday, March 05, 2014 10:42 PM
To: Craig Start
Subject: Summary of "Transitional" Policy for Non-Compliant Health Plans
Attachments: Final 2015 NBPP.pdf

Hi there. Below is a bullet point summary of the HHS guidance that was released today. Also today, HHS issued final regulations on the risk corridor and reinsurance programs. The final regulations are attached. Please feel free to let me know of any questions! Thanks. Talk to you soon!

What Happened Today?

- Today, HHS issued guidance that would permit health plans in the individual and small group markets that are currently *not* compliant with many of the ACA market reforms to remain in force until at least Oct. 1, 2017. Importantly, as discussed more fully below, transition relief was also provided to employers that employ between 51 and 100 employees, allowing these employers to effectively delay the application of the small group market reforms to their plans once the definition of "small employer" changes on Jan. 1, 2016 (i.e., when the definition of "small employer" changes to 1 to 100 employees).

Is The "Transitional" Policy Mandatory?

- The "transitional" policy set forth in the guidance will *only* be in effect if a State adopts this policy. Michigan did
 - Note, that only 27 States adopted the first "transitional" policy that was announced in Nov. 2013. So, it will be interesting to see how many States adopt this new round of "transition" relief, if any.
- In addition, carriers *do not* have to adopt this "transitional" policy even if the State in which they operate adopts the policy. BCBS did
 - Most if not all carriers in States that adopted the Nov. 2013 "transitional" policy allowed non-compliant individual and small group plans to stay in force. As a result, I would expect that if a State adopts this "transition" relief, the carriers will extend this relief to their individual and small group health plans.

What Does the "Transitional" Policy Say About Small Group Plans? (please note, I am excluding references to individual market plans, but know that the same rules I describe below for small group applies to individual)

- If adopted by a State and the State's carriers, these carriers may continue to offer small group plans that would otherwise be cancelled because the plan was not compliant with, among other reforms, the "essential health benefits," the "cost-sharing" limitations, and the "actuarial value" requirement. These small group plans would also not be subject to, for example, the new adjusted community rating rules and the guaranteed issue and renewability requirements. Nor would they be subject to the "single risk pool" requirement (i.e., these plans would be in their own risk pool).

- In addition, non-grandfathered small group plans that were renewed for a policy year starting between January 1, 2014 and October 1, 2014 would not be considered out of compliance with, as discussed above, the “essential health benefits,” the “cost-sharing” limitations, and the “actuarial value” requirement, and would not be subject to, among other reforms, the new adjusted community rating rules, the guaranteed issue and renewability requirements, and the “single risk pool” requirement.
 - Note at this this point, we are still in 2014, so small group includes employers with 50 or fewer employees. The definition of small does not change to 1 to 100 employees until Jan. 1, 2016.

How Long Will This “Transitional” Policy Last?

- This new “transitional” policy – if adopted by a State and the carriers – may extend through Oct. 1, 2017. That is, the “transition” relief will apply to policy years beginning on or before October 1, 2016. HHS reserved the right to extend this policy an additional year, but future guidance will be needed for an extension of this policy after October 1, 2016.
 - Note, in the Nov. 2013 “transitional” policy announcement, HHS gave itself the discretion to extend the “transition” relief. Today, HHS acted upon this discretion. It would not be surprising if HHS acts upon this discretion after 2016. It actually is likely, considering we will have a new President in 2017 (even a Democratic President will likely extend this “transitional” policy as the new Administration eases into existence).

Will This “Transitional” Policy Impact Large Group Plans?

- Yes, but only for employers employing between 51 and 100 employees. In particular, because this “transitional” policy straddles January 1, 2016 – when the definition of “small employer” will change – employers employing between 51 and 100 employees *may also* renew their current large group health plan through policy years beginning on or before October 1, 2016 *without these policies being considered out of compliance* with the reforms applicable to small group plans (discussed above): the “essential health benefits,” the “actuarial value” requirement, the new adjusted community rating rules, the guaranteed issue and renewability requirements, and the “single risk pool” requirement. But, these plans would still be subject to the large group market reforms, namely the “cost-sharing” limitations.
 - Note, this is significant because HHS has effectively delayed the application of the small group market reforms to employers who are now in the large group market (i.e., employers with 51 to 100 employees), but who will be in the small group market when the definition of “small employer” changes in 2016 (i.e., when the definition changes to 1 to 100 employees for small group).
 - Remember, a State does not have to allow this “transition” relief to be available to employers employing between 51 and 100 employees. Also, carriers do not have to offer this relief even if the State they operate in adopts this “transitional” policy for these employers.
 - If a State and the carriers adopt this “transitional” policy, one would argue that every employer employing between 51 and 100 employees should renew their large group plan on Oct. 1, 2016 so they can effectively push off the application of the small group market reforms all the way until Oct. 1, 2017. It’s unclear, however, whether a carrier would permit a calendar year plan that beings on, for example, Jan. 1, 2016 to “renew” on Oct. 1, 2016 of the same year (i.e., will the carrier permit a short plan year?).

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May 1, 2015

Small Group Delay Hits Congress

Beginning in January, the definition of small group will expand in all states to include groups of one to up to 100 full-time employees. This will mark a major shock in insurance markets in every state, as currently all states limit small group to only up to 50 employees, despite the ability to transition early. The change will be coming at the same time as other major compliance burdens; particularly the employer shared responsibility provision (employer mandate), Essential Health Benefits (EHBs) and minimum actuarial value and cost sharing requirements, making the transition extra onerous without time to adjust. NAHU strongly opposes the new small group definition and has sent a letter to the Administration asking for a two-year delay to the transition to give employers more time and line-up the transition period with the original implementation timeline.

Many medium-sized groups will likely face substantial price increases as they become regulated under small-group rules; some may choose to self-insure, and others may lose their current coverage altogether as some insurers that currently offer these employers large group coverage may not have comparable small group products. To make matters worse, an estimated two-thirds of plan beneficiaries in the newly expanded small group market will have to endure premium increases of an average of 18% just based on this new requirement.

This week, Senators Tim Scott (R-SC) and Jeanne Shaheen (D-NH) introduced S. 1099, legislation that would give states the option to redefine their small group size, instead of the single federal standard. This bill joins a similar bill in the House, H.R. 1624, introduced last month by Representatives Brett Guthrie (R-KY-2) and Tony Cardenas (D-CA-29). That bill has the support of 26 other members of Congress, including two more Democrats and 24 Republicans as well as NAHU.

Any changes to the requirement need to be made as soon as possible, as insurance companies are already in the process of plan design and pricing for the next year and will need to submit rates in the coming months. A repeal of the provision after rates are submitted could cause further chaos in the marketplace as insurers respond to new rules.

You can help drum up support for this measure by sending an Operation Shout today!

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<http://www.wsj.com/articles/midsize-businesses-seek-relief-from-federal-health-law-1432753537>

BROWSER UPDATE To gain access to the full experience, please upgrade your browser:

Chrome (https://www.google.com/intl/en_us/chrome/browser/) Safari (<http://support.apple.com/downloads/safari/>) Firefox (<https://www.mozilla.org/en-US/firefox/new/>) Internet Explorer (<http://windows.com/ie9/>)

Note: If you are running Internet Explorer 9 and above, make sure it is not in compatibility mode

| BUSINESS | SMALL BUSINESS

Midsize Businesses Seek Relief From Federal Health Law

Firms With 51 to 100 workers say Affordable Care Act will significantly raise their costs

Kelli-Marie Vallieres, CEO of precision sheet-metal fabricator Sound Manufacturing, says the Affordable Care Act will cost her company \$80,000 to \$100,000. PHOTO: MICHELLE MCLOUGHLIN FOR THE WALL STREET JOURNAL

By LOUISE RADNOFSKY and ADAM JANOFFSKY

May 27, 2015 3:05 p.m. ET

Employer groups and insurers are pushing to keep businesses with 51 to 100 workers exempt from a provision of the federal health law that they say could significantly increase their costs.

For these midsize employers, the Affordable Care Act's requirements for what health plans must cover—and how they are priced—are set to take effect on Jan. 1, 2016.

Already the law requires insurers to sell individual and "small group" plans to everyone at the same price, regardless of their health. Those rules, which kicked in Jan. 1, 2014 for businesses with 50 or fewer workers, also set standards for what health-benefits packages must cover.

The new pricing rules were designed to help individuals whose prior illnesses made it costly for them to get insurance. But they have caused a spike in costs for some small businesses with healthy employees, and for young people, who previously got good rates because of their light medical needs.

Midsize businesses that already offer health coverage, such as precision sheet-metal fabricator Sound Manufacturing Inc., say they could be next in line for sharp price increases. One study conducted for the U.S. Chamber of Commerce by actuarial firm Oliver Wyman found that nearly two-thirds of workers in such firms would face premium increases of 18%.

Sound Manufacturing offers insurance to its 54 employees, but its relatively young and healthy workforce wouldn't help it under rules coming in 2016. PHOTO: MICHELLE MCLOUGHLIN FOR THE WALL STREET JOURNAL

Sound Manufacturing, based in Old Saybrook, Conn., offers insurance to its 54 employees. But Chief Executive Kelli-Marie Vallieres expects the company's premiums to rise, because its relatively young and healthy workforce will no longer help it limit what it pays.

"The cost to my company of the Affordable Care Act is going to be \$80,000 to \$100,000," Ms. Vallieres said, based on projections she mapped out after consulting her insurance broker. "That's a really big hit for a company this size. We're not at a point where we're making a big profit," she said of the 31-year-old business.

Sound Manufacturing and other midsize employers, which previously fell under federal rules for large companies that allowed them to negotiate their own deals with insurers, say they should be exempt from the new rules and shouldn't be lumped in with smaller businesses. They have amassed a broad range of allies, including insurers and consumer groups not often in the same camp.

"Allowing states to keep the current definition of a small group will allow businesses to keep what they have and keep health-care benefits affordable and accessible for the millions of workers and

their families who depend on them," said Alissa Fox, senior vice president of the Office of Policy and Representation for the Blue Cross Blue Shield Association.

The campaign has met with some success. Roughly two dozen state insurance commissioners have announced that health plans within their borders can delay making the rule changes, though the delay doesn't apply to new health plans.

But the companies and their supporters say broader action is needed, and have fired off a series of letters to the Department of Health and Human Services asking it to delay the rules nationwide for another two years.

In a letter to Senate Democrats who had raised the issue, Health and Human Services Secretary Sylvia Mathews Burwell said she "appreciated" their concerns "regarding market stability and access to coverage," and would "continue looking into this matter."

Paul Nachtwey, vice president of Todd Associates Inc., a Beachwood, Ohio, insurance broker, said that to cope with the requirement to offer the same prices to all, regardless of health status, some insurers might extend contracts with midsize firms beyond the standard 12-month term, pushing renewals deep into 2016. He said that might "build a time cushion" for insurers and employers to comply with the law's requirements.

Sabrina Corlette, a former consumer advocate and senior research fellow at the Center on Health Insurance Reforms at the Georgetown University Health Policy Institute, said she supports delaying the change to find out more about its ripple effects. "This is something where we should really proceed with caution," she said.

Employer representatives say they would like any delay to become permanent. "We want to at least delay this," said Joel White, president of the Council for Affordable Health Coverage, an advocacy group. "Ideally, we'd like to see this market left alone,"

Meanwhile, Ms. Vallieres, Sound Manufacturing's CEO, has hired temporary employees to do entry-level work. "I already have to spend a lot of money in the development and training of a young worker, so it makes it a tougher decision for me to invest in a young person" when insuring them also costs more, she said. "It's punishing companies for hiring new, younger people," she said of the higher premiums she expects to face.

— *Angus Loten contributed to this article.*

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