

Health Reform Update- December, 2011

Defining “Small Business” for the Health Insurance Exchange

One of the first important health care reform bills introduced in the Vermont legislature, [S. 208](#), has been introduced by Senators Vince Illuzzi (R-Essex/Orleans) and Hinda Miller (D-Chittenden). The bill incorporates several of the proposals circulated and debated last year regarding the Health Insurance Exchange that will launch 1/1/2014 offering insurance plans for individuals and small businesses.

The bill challenges some key assumptions in the plans put forth by Governor Shumlin for the Exchange.

[S. 208](#) would:

- Define a small employer as a business with 50 or fewer employees in 2014 and 2015, as an employer with 100 or fewer employees in 2016, and as an employer of any size in 2017 and subsequent 10 years.
- Require that health insurance be available for purchase in the individual and small group markets both inside and outside the Exchange and directs the Department of Banking, Insurance, Securities, and Health Care Administration to propose a mechanism for merging the individual and small group markets.
- Require the Secretary of Administration to provide an estimate of the cost of providing an additional state subsidy on a sliding scale to individuals eligible for federal premium tax credits and cost-sharing subsidies, in addition to those federal subsidies.

The first issue in the list, “*how to define a small employer*”, was a central debate last year, and the legislature put off a final decision until the 2012 session. The Governor and many in the legislature want to maximize the number of businesses buying through the Exchange, and therefore proposed to use a federal option and redefine “small business” (currently defined as <50) to include any business with up to 100 employees. Under the federal law, all states must open their Exchanges to employers <100 in 2016, and S. 208 follows that timeline, but starts with <50 for the 1/1/2014 launch period.

Why has this become a key issue? Why worry about defining small business as <50 versus <100? Listed are the three key reasons behind the proposal to define small business as <50, (instead of <100), at the *inception* of the Exchange:

- Bringing larger employers into the small group community rated pool actually drives up the costs for 50-100 employers, requiring them to cross-subsidize small businesses, whose costs tend to be higher;
- Defining small business as <100 removes current choice and flexibility, and the return on investment for wellness and other cost control initiatives, for the employers of 50-100 without providing any tangible improvements for them;
- Forcing 30,000 additional people and almost 500 more companies into the brief Oct-Dec 2013 Exchange enrollment window, and the 1/1/2014 launch of the Exchange, creates unnecessary additional risks to the success of the Exchange, and takes away their safety net by making the Exchange the only place they can buy coverage. What if the enrollments and roll-out don’t work as predicted?

Let's look at these issues in more detail.

Larger employers and their employees will have to pay more to subsidize the smaller groups because the community rating in the "small group market" means that everyone pays the same. Larger groups tend to have lower claim costs and premiums right now. Ask an employer in the 50-100 range what they pay for individual premium now, compared to what they could buy from BRS, MVP, the Chamber, etc., and most will say they get better or as good coverage for less. Should they be forced to pay more to subsidize small businesses? Or do we let the Exchange try to contain costs for another two years before forcing in the 50-100s of the world? The state has not shown yet that the Exchange plans will cost less than what anyone could get outside the Exchange.

Second, a very important point is that the Administration plans to rule out sale of plans outside the Exchange. Thus, the combined plan of putting all employers under 100 in the Exchange, while at the same time prohibiting sale of insurance to them outside of the exchange, means that mandating the 50-100 employers into the Exchange means they would have no choices except the Exchange. (And the current state plan for the exchange is to have two choices: a silver plan and a gold plan, meaning one benefit design with two levels of coinsurance. That's it.)

Currently, these employers are in the "large group" market and have much more flexibility to design policies that match their workforce and finances. They are experience rated so their investments in wellness and health prevention programs give them an actual ROI based on their own claims experience. If they are forced into the Exchange, which is community rated and will have two plan choices, and they have no option to buy something else, they lose any opportunity to have flexibility in their plan design, and lose their incentive to invest in worksite wellness or other "health care demand management" programs.

If the state weren't mandating the Exchange to be the only place to buy coverage, then whether small group is defined to include the 50-100 may not be such an important issue. But by redefining the size, and then saying the Exchange is the only place to get coverage, the definition of "small group" becomes a very important issue for employers of that size. It's not being discussed as an option, only as a mandate.

Third, when you expand the small group definition to 100, you bring in 98% of employers and 2/3rds of employees in the state. (See table below). In addition, there are tens of thousands of individuals to be enrolled: the Exchange is going to have all of the Catamount people, most of the people currently on VHAP, and all of the uninsured trying to sign up, get their subsidies straightened out, etc. The total number of people trying to enroll could approach 100,000. This makes the initial kick-off of the Exchange a monstrous and risky administrative job. It's an "all in" proposition to provide plan selection and coverage to all of these people and entities starting 1/1/2014 with no safety if there are problems. Expanding "small group" definition adds 442 businesses and 30,051 additional people that the state could wait two years to add, when the bugs are worked out.

Size of establishment by # of employees	Number of Vermont Employers and Employees by Size of Entity ¹								Total
	<4	5 - 9	10 - 19	20 - 49	50 - 99	100 to 500	500 to 999	>1,000	
Entities	13,701	4,066	2,531	1,519	442	255	21	11	22,546
Employees (Mar 2011)	21,085	26,892	33,900	45,004	30,051	45,566	14,208	21,190	237,896
% of Entities (cumulative)	60.8	78.8	90	96.7	98.7	99.8	99.9	99.9	100.0
% of employees (cumul.)	8.9	20.2	34.4	53.3	65.9	85	91	99.9	100.0

¹ Source: NAICS: 2009 County Business Patterns Study: County Business Patterns by Employment Size Class. Viewed 11/29/2011 at <http://www.census.gov/econ/cbp/>

So, the three key issues argument in support of this amendment (to keep small group defined as <50), compared to doing what the Shumlin Administration wants:

- Provides continued choice and flexibility, and the return on investment for wellness and other cost control initiatives, for the 50-100 employers,
- Does not drive up costs for 50-100 employers, does not require them to cross-subsidize small businesses by forcing them into the small business community rating pool.
- Protects these employers and employees (30,000 people and almost 500 companies) from the risks of the brand new Exchange, and avoids additional risk to the people who will be in the Oct-Dec 2013 enrollment period, and the 1/1/2014 launch of the Exchange without a safety net.

So much of the inherent risks and problems go away if the Exchange is offered in the marketplace as an option, (which was the intent of PPACA). It's the Governor's proposal making the Exchange *the only game in town* that creates so many of the concerns people have. The reason given by the Governor for making the Exchange the only place to buy private insurance is to use the Exchange as the "stepping stone to single payer." In other words, they want to collapse the private market into being only the Exchange. This line of thinking is precisely what is causing the risks and problems noted above.

We think it's More Complicated than That. "There are no solutions. There are only trade-offs."

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