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2014: When ACA and ART square off

By Dick Goff

Taking a trip back in time to that wonderful year 2010, it seemed then that implementation of federal healthcare reform would take place far into the future – way out in 2014. Well, welcome to your nightmares, it's here!

We have – somewhat reluctantly but what can you do? – entered the year scheduled for consummation of the law first called the Patient Protection and Affordable Care Act (PPACA), then shortened to the Affordable Care Act (ACA) and which everyone, even the president, terms Obamacare.

I have observed two phenomena attached to this significant milestone. First, the federal government in all its majesty ran amok like a million chimpanzees with a million iPads botching the attempt to prepare a technological gateway where millions of citizens would gratefully accept the opportunity for government-mandated health care. Or not.

The weaknesses of the ACA are not, of course, limited to its website. The greatest weakness perhaps is the notion that younger Americans will voluntarily pay for the privilege of supporting the care of older Americans by joining a health care exchange. Good luck with that.

Second, the alternative risk community has prepared an environment that would help enable U.S. employers to provide health benefits to their employees and dependents with both cost stability and coverage control. Remember those words: stability and control; they'll come up again.

ART's contribution to employee health care has been the development of captive insurance programs that protect employers from catastrophic claims costs. These take the form of group captives that spread the risk among their members for maximum efficiency within actuarially sound pools.

A Montana TPA, EMBS, formed a group medical stop-loss captive nine or ten years ago to support continuing rising medical cost protection beyond its clients self-insured retention (SIR). It felt strongly that by doing so it would bring stability to this

non-controlled medical plan delivery component and guess what, not only had there been no rate increases over that nine or ten year period, the captive had continued to assume more and more risk over that time, continuing to push the traditional stop-loss market further out. Talk about taking control and bringing stability – wow!

A Pennsylvania company that forms group captives for excess employee benefit claims expects to double or even triple the number of companies in its groups this year as employers feel the full impact of the ACA's deficiencies.

In my view federal healthcare reform has been the greatest-ever stimulus of employer education about the value and management of employee benefits programs. No longer are health benefits passed off as a staff function to buy off-the-shelf products and continue business as usual. Now benefits planning is a strategic function of the executive suite.

Andrew Cavenagh, Managing Director of Pareto Captive Services, LLC, of Philadelphia, likens health care to another expense line of all organizations, such as energy-associated costs.

"As energy costs rise, some business people shrug it off as a cost of doing business, and send that along to customers as increased prices," Cavenagh says. "Others seek more efficient sources of power such as solar, or they procure a more efficient fleet of vehicles. As they restrain cost increases while others accept them, they enjoy a significant competitive advantage."

Cavenagh sees three current sources of benefits-planning efficiency among employers: "At the first level, self-insurance is the first step employers can take to increase the efficiency of their benefits dollars with ERISA-enabled plans. A self-insurance plan eliminates many of the carrier profits and other structural inefficiencies of the fully-insured market.

"At the next level, employers can decrease the demand for health care among their employees by using their own claims data as the basis for wellness and disease preventative programs. Consumer fewer units of healthcare is obviously a key step to reducing costs.

"Third, employers can find the efficiency of group captives to cover costs beyond their self-insured retention. These captives provide both the price stability and control of coverage and healthcare providers."

Once again we ponder the magic words: stability and control. And aren't those everyone's goal in life?

I believe the stampede to self-insurance and ART-crafted excess loss programs has just begun. This year employers of 50-plus employees will face a possible penalty tax of $2,000 per employee they do not cover or send to a state exchange. How long might it be before that tax is doubled, tripled or even sent higher to cover the losses the government will be racking up because of its actuarially unwieldy exchange pools?

This year the mass migration to self-insurance and ART solutions will gain momentum toward the future. As the great Al Jolson said, "You ain't seen nothin' yet!"

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