Part II: The Obamacare Challenge for Employers – Employers with Less Than 50 Full-time Employees

The Affordable Care Act, or Obamacare, is dramatically changing how small- and mid-sized businesses must handle health care benefits. What's more, many rules governing employer duties in 2014 and 2015 have been changing, creating more complexity. But the rules for companies with less than 50 full-time employees are different from firms with more than 50. In this podcast, Knowledge@Wharton asks two experts to outline the key things for smaller firms to understand. The participants in this podcast are Jeff Englander, a senior vice president and senior research analyst at GE Capital, and Lawrence Gelburd, a Wharton instructor. An edited transcript of the conversation appears below.

Knowledge@Wharton: I want to move on now to employers with fewer than 50 employees. They have very different obligations under the Affordable Care Act. So let's start, Jeff, with you. What are some of the special considerations for smaller employers as they consider whether or not to offer coverage, because they do have more of a choice?

Jeff Englander: I think there are a couple of things. You want to look at the fact that you have to consider the number of employees. If you have less than 50 employees, under the Affordable Care Act, you do not have to offer coverage. You want to look at the annual average wages per full-time employee. If the employee's average annual wages are between 100% and 400% of the federal poverty level, you want to consider the options in terms of your coverage versus what they may be eligible for on the exchange and any subsidies they may be eligible for.

You want to look at the composition of your work force in terms of their age and other options they have. Look at the nature of the coverage you are considering. And small employers may offer insurance but they are not required to. You want to look at some unique circumstances that you may have. If there are a large number of family members that are employed by the company, they are not counted in the number of employees but they may be a factor in terms of whether you choose to offer insurance or have your employees go to the exchange. You also want to look at whether you have paternalistic concerns or, as Lawrence has mentioned, whether there may be other health and wellness goals that you are trying to accomplish through the offering of insurance.

Lawrence Gelburd: You can also see that sometimes, even though you may have fewer than 50 employees and not have to pay for that insurance or make that insurance available, you often have issues in small companies with fewer than 50 employees where there may be historically certain health benefits that have been split among some of the senior management but not necessarily for everyone in the company. And, in fact, I have worked in partnerships and small corporations where one of the major issues when they are trying to dissolve is who pays for what insurance. It can be a large percentage of the expenditures, particularly with people with existing conditions, and once they lose that business insurance they historically have had a hard time getting reasonably priced insurance. So that also becomes an issue and I would recommend to everyone that, if they are going in to a partnership or a corporation, they should be considering some of these issues on the front end about what they want to do in case there is a dissolution.

Knowledge@Wharton: What are some of the subsidies and benefits that smaller employers may be entitled to under the Affordable Care Act?

Englander: If you look at the Affordable Care Act, beginning in 2010, employers with 25 or fewer full-time equivalent employees (and this does not include business owners and their families in the calculation) where the employees have average annual wages of $50,000 or less per full-time employee, and when the employer pays at least 50% of the employee premium, [those employers] qualify for a tax credit. Now for this year, that tax credit will be 35% of the employer's contributions for an employee's premiums. That is for for-profit employers. It is different for non-profit employers.

In 2014, that will go up to 50% of the premiums and, once again, that is different for non-profit employers. That will be phased out.

Knowledge@Wharton: If you were one of those smaller employers and you were paying 50% or 60% of your employees' premiums, wouldn't you have already been getting a deduction? And now it is being reduced to 35%? In other words, is it more expensive for you now?

Englander: No. You are getting a tax credit as opposed to a deduction.

Knowledge@Wharton: A credit. Oh, I see. So that is a big difference. So what if you are a small employer who chooses to get insurance as an individual on the exchange or the marketplace? How will the subsidies and tax credits on the exchanges work?

Englander: Now you would only be able to do that — the case where that would come in to play is, for example, if you are a self-employed business owner and your income was between 100% and 400% of the federal poverty level. And for 2014 those levels would be, say, $11,500 roughly to $46,000 for an individual and roughly $23,500 to $94,000 for a family. If that is the case, you would be eligible for certain subsidies based on your income as a percentage of the federal poverty level. What they would do is cap the premiums that you would pay for that insurance as a percentage of income.

For example, at 133% of the federal poverty level, the premium would be no more than 3% of your income. And what you would do then is the cost of the plan would be capped, so the subsidy that you would get would be the difference of what is called the [second] lowest cost plan, which is the silver plan, and that capped amount. And just to clarify, the plans on exchanges go by what they call metal tiers. They go bronze, silver, gold, and platinum, with the bronze being the least expensive and the platinum being the most expensive. The subsidies are based on the second lowest cost plan, which is the silver plan.

Knowledge@Wharton: Let's take the example of someone who is 130% of poverty level. First of all, how much is that? Second of all, what does it mean for the employee? What will they be paying — you said about 3%? And then what would it mean for the employer?

Englander: Well, in this case, if they are getting the insurance on the exchange because they are eligible for subsidies because their income is at a certain level of the federal poverty level, the employer would not be involved. The employee would be getting this through the exchange. But what you could do, for example, is, say their income was roughly 130% of the federal poverty level. That would be slightly under $15,000. The net cap on the premium would be about 3% of their income. The net premium would be roughly $450.

The un-subsidized cost of the insurance then would be the difference between that cap and the cost of the plan. That is roughly going to be about $5,600 or so, on the exchange. So their premium subsidy would roughly be about $5,200.

Knowledge@Wharton: And their premium would be?

Englander: The amount of the premium to the consumer would be $446 for the year.

Knowledge@Wharton: So that sounds affordable.

Englander: Yes.

Knowledge@Wharton: There are a lot of information sources out there. There are a lot of good ones. And I think that you both advocate that people access them. Lawrence, tell us about some of your favorite ones and why they are important and what they can do for employers as they prepare over they next year or so.

Gelburd: I always tell my clients, get online and use a search engine as the first line of information. So rather than run and hire an accountant and go to an attorney and do all these things right off the bat, what you really want to do is get online. It can be as simple as going to a search engine and just typing in "ACA for small business." I have come across some really great information on the small business administration website, www.sba.gov. They have webinars where they can go into some of the detail that we don't have time to go through all of it here. There is also really good information on the www.IRS.gov page when you are trying to figure out what is a full-time employee and what is a variable employee and all of these issues. Also, for entrepreneurs and small companies, the Ewing Kauffman website, www.Kauffman.org, is full of great information about healthcare and other relevant topics.

Englander: I would definitely second that on the Kaiser Family Foundation. Also, the Robert Wood Johnson Foundation has an excellent reference that's called Navigator Resource Guide and I believe the proper title is Navigator Resource Guide on Private Health Insurance. But I think if you just type in "navigator resource guide" into a search engine you will get that. In addition, there is the Society for Human Resource Management. It has a healthcare reform resource page, which is a great resource for businesses looking to follow what is going on. Actually the U.S. Department of Labor has an employee benefits security administration page. Look under the ACA implementation frequently asked questions section. And there is the Employee Benefits Research Institute, www.ebri.org, and they also have an excellent section. Those are all good resources for people who are time constrained to follow what is going on with the law and what they need to know.

Knowledge@Wharton: Well thanks very much gentlemen. Appreciate it.