Five Things You Need to Do Now to Prepare for Health Care Reform

The Patient Protection and Affordable Care Act of 2010 (PPACA) introduced many changes into the health benefits environment for organizations in all sectors and of all sizes. While not every provision of the Act impacts every organization in the same way, a structured, strategic, well thought-out approach to determining how to respond—and even thrive—in this new environment ought to be at the forefront of every thinking business owner and executive's human resource strategy. After all, since we know that the best team wins, the strategic question becomes how to leverage the health benefit strategy as part of an overall total rewards, HR and organizational goal.

There are five things that every organization should now do. They are: perform a strategic analysis of the role that health benefits play in recruiting, retaining, and engaging its team members; identify which aspects of the law will impact the organization's current health benefit strategy and implementation; conduct qualitative and quantitative analyses of how offering health benefits as part of a larger total rewards strategy impacts the organization and its team members; develop an implementation plan for this year and beyond to ensure not only compliance with the law but leverage in enhancing team member and organizational performance; and prepare a communication and education plan for employees not just one-time, but rather on an ongoing basis.

Perform a Strategic Analysis

On its own, the PPACA shouldn't have had to cause any organization to assess the role that a health plan plays as part of a total rewards strategy in recruiting (talent acquisition), retaining, and engaging (talent management) its employees. However, many organizations are now finding that is exactly the questions that it raises.

Every organization should be able to answer the following strategic questions with regard to its health plan(s):

1. Do our health benefits, as part of a larger overall total rewards strategy, enable us to recruit the right type of team members to make our organization more successful?

2. If we didn't offer our health benefits as we do today, what impact would that have on our ability to recruit successfully? Or would it mean that

we have a more difficult time in retaining our top talent?

3. Do our current health benefits assist us in retaining the best and brightest team members; those that contribute the greatest to our success?

4. Do our health benefits, again as part of our overall total rewards strategies, help us increase the level of employee engagement?

It is only after examining these and other strategic questions that health benefit costs as a significant part of the equation should be factored in.

Identify the Law's Impacts

Next, an organization must catalog and assess all of its existing health benefit programs to determine how the PPACA might affect them. From the strategic review that was accomplished above, a thorough plan feature-by-feature analysis against the requirements of the Act will enable an organization to identify items that might need to be modified or eliminated. For example, does the plan have an eligibility period for plan entry that exceeds 90 calendar days? Or are office visit copays charged to plan participants for preventive health services? Both of these are no longer allowed under the Act and would require review and modification and/or elimination.

Perform a Qualitative and Quantitative Review of the Existing Plan(s)

There are a number of analyses that every organization that makes the strategic decision to continue to offer health benefits to its employees must perform.

The first is to determine if the plan should attempt to maintain its grandfathered status under PPACA (it it hasn't already give up such status through plan design changes for plan years beginning on or after September 23, 2010). Incidentally, just because the carrier or TPA "says" the plan is nongrandfathered does not necessarily make it so. Only by changing the plan design in such a way as to lose grandfathered status, or by starting a new plan after September 23, 2010, or by failing to provide the annual notice to participants that the plan is maintaining grandfathered status as part of open enrollment (and this last item is one for further discussion) can a plan "lose" grandfathered status. But there is a strategic component for an organization to wish to maintain such a status, and that is the focus of the first qualitative analysis.

There are now only six items within all of the PPACA that only apply to nongrandfathered plans. Of these six, only three are real-world considerations (the other three are extremely rare if they exist at all any more). The six are:

- Insured plan nondiscrimination rules
- Expanded review and appeals processes for denials
- Preventive benefit cost sharing requirements
- Emergency services prior authorization
- Emergency services cost sharing out-of-network
- Participant choice of primary care physicians for pediatricians (children) and OB/GYNs (women)

If the organization examines each of these individually, and can determine that none of the six would be problematic for the employer, than there is little or no value to maintaining grandfathered status. The remainder of the employer provisions in the PPACA affect both grandfathered and nongrandfathered plans identically.

The next qualitative analysis is to determine if the organization's existing benefit plans meet the Act's Essential Health Benefit (for small employers only), minimum value, and affordability standards. This will form the basis of a later analysis dealing with the Employer Responsibility provisions of the Act, often known as the "play-or-pay-or not" penalties. First, a small employer's plan must provide coverage for all of the Essential Health Benefits as outlined by the Department of Health and Human Services (HHS), the Department of Labor (DOL), and of course the IRS. For these purposes a small employer is defined as one with fewer than 50 full-time equivalents. These three agencies are charged with collaborating under the PPACA to issue regulations clarifying various provisions. Second, in order to be considered eligible, each plan offered must have a minimum of a 60 percent actuarial value. Simply, the plan expenses that are expected to be paid during the upcoming plan year must be at least 60 percent of expected total eligible expenses (the participant portion—consisting of deductibles, copays, and coinsurance must be projected to be 40 percent or less of total eligible expenses). Lastly, if the employer wants the plan to be considered "affordable" under the Act, the premium co-share it charges for employee-only coverage must be 9.5 percent or less of a participant's household income. Since employers won't know an individual's household income, there are three safe harbors that can be relied upon to determine affordability, and so an analysis of each of the safe harbors must now be undertaken. If in the end the employer's plans all provide all Essential Health Benefits, meet the minimum value requirements, and are affordable, even to the lowest paid eligible employee, then the employer may be shielded from penalties under the Employer Responsibility provisions of the Act.

The first quantitative analysis focuses on the financial ramifications of offering a plan or not offering eligible health coverage. While some may think that it's substantially less expensive to pay the $2,000 per year per full-time employee penalty instead of the 2013 average employer plan cost of over $11,000 per employee per year, it's not quite so simple.

If as part of the organization's broader goals and objectives, and in particular its HR strategies around talent acquisition (recruiting), talent management (retention) and employee engagement, the employer determines that if it were to abandon its health plans as part of its total rewards strategies, a discussion of what will replace that now-gaping hole in employees' total compensation must ensue. Further, such a discussion needs to focus on the costs making the employee "whole" via either additional taxable compensation or some other form of total reward. The fact is that offering health coverage is tax-efficient for both the employer and the employee. Health benefits offered are not taxable to either employer or employee for FICA and Medicare purposes, nor is it taxed to employees for federal, most state, and local income tax purposes. Substituting taxable compensation in lieu of health benefits can easily increase overall costs to the organization by over 45 percent.

The second quantitative analysis that should be performed is a projection of the new Cadillac Tax set to take effect in 2018. Under this new provision, very rich health plans (with very rich price tags) are taxed on the premium cost that exceeds new employee-only or family thresholds. Further, this excise tax is nondeductible by the organization. The employer should project out the premium costs of its plans today to determine if the Cadillac Tax is likely to apply and if so, to calculate the likely tax that will be due.

Develop an Implementation Plan

Once the strategic, qualitative and quantitative analyses are completed, the next step is to review the timeline of the effective date of various provisions within the Act, and then to build an implementation plan for each decision as well as the rollout of any plan design modifications; new open enrollment processes; interaction with plan vendors such as insurers, stop-loss carriers, and third-party administrators; and new reporting requirements both to and from the employer to various state and/or federal agencies.

Prepare an Employee Education and Communication Plan

Perhaps the most critical element of an overall implementation plan is the necessary education of the organization's employees. We are finding that employees are not reading newspaper or magazine articles on the forthcoming changes. Nor are they watching the "talking heads" on television or on the internet discussing the political ramifications of the Act. Rather, employees and their dependents are turning to the employer for answers on how the Act will affect them individually, and how the organization is responding to various provisions. A detailed, informative, and most importantly on-going education/communication plan must be developed and executed in order for the value of the very costly health benefit program to be understood by the employee in order for the organization to receive the benefit of its offering in increased productivity, reduced absenteeism and presenteeism, and greater engagement and longevity of its workforce.

Conclusion

By performing these five analyses and plans, the smart organization puts in place a significant piece of its total rewards strategies, and can positively impact its ability to recruit, retain, and engage its workforce. At the end-of-the-day, isn't that what any HR strategy is trying to accomplish? By linking its HR strategies to the organizational goals and objectives, the smart employer builds its competitive advantage, and finds that over time it has assembled the best team. And as we all know, the best team wins.
