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Nonprofit Employers Scramble to Comply With Health-Care Measure

By Debra E. Blum

At New Era Colorado Foundation, an advocacy group that seeks to get people in their 20s and 30s involved in public-policy issues, the nation's new health-care law has already been a financial bonus, even though it doesn't take effect fully until 2014.

The nonprofit often hires people who were recent interns to become full-time workers, and they tend to stay on their parents' plans, since the law allows them to do so until they turn 26. And a tax credit available to small employers yielded $1,700 this year, says the organization's executive director, Steve Fenberg.

But bigger changes and decisions are ahead for Mr. Fenberg and other nonprofit leaders now that the Supreme Court has upheld the federal health-care law.

And relatively few of them have been getting ready.

Many charities and foundations, which employ millions of Americans, have postponed preparing for the most sweeping provisions that take effect in the coming years, waiting to see if the law would stick.

Other groups are so preoccupied with keeping their finances stable they haven't focused on the health law.

"This economy has a lot of nonprofits just thinking about the next three months, not the next three years," says Peter Andrew, president of Council Services Plus, an insurance broker for New York nonprofits. "They are thinking, Let me manage my plan and rates this month and next, not, What will it all look like in 2014?"

Quick Action Required

Nonetheless, now is the time nonprofit officials must act to adopt new requirements of the law for this year and next, and take special care to plan for insurance-access rules and penalties that take effect in 2014, say experts. Those rules, designed to extend coverage to millions without insurance, carry great implications for employers.

"It's time to start paying attention, understanding your responsibilities, doing your analysis," says Danny Miller, a Washington lawyer who specializes in employee benefits. "Some requirements are coming online sooner than others; then you need to be ready to handle the biggest changes in the law's watershed year."

Do the Math

To prepare for 2014, say Mr. Miller and other consultants and human-resource officials, nonprofit leaders must familiarize themselves with the new state exchanges—marketplaces being created to offer affordable health insurance—and how the rules governing them will affect their employer-sponsored plans, insurance costs, and potential exposure to excise taxes.

Charities should be analyzing their plans, engaging with insurance brokers, and communicating with employees about the options that will be available when the exchanges open, they say.

Since large nonprofits—those with at least 50 employees—must pay tax penalties if they don't provide a certain minimum amount of coverage for enough of their workers, they should be calculating the costs and benefits of expanding their plans or paying the fees. Smaller nonprofits, which will not be subject to the penalties, should be doing their own studies, figuring the costs, for example, of keeping employees on organization-sponsored plans or increasing their salaries and sending them to the exchanges to buy their own coverage.

"For every charity, the math will be different," says Julie Gallion, a senior consultant at Nonprofit HR Solutions, "and this is something that everybody should be working on."

Few Groups Are Prepared

Signs suggest very few organizations are doing that.

A survey of 4,000 for-profit and nonprofit employers conducted shortly after the Supreme Court's ruling by the consulting company Mercer found that a majority had put off developing strategies to handle their new obligations until the court's decision. And while 40 percent of those surveyed said they would now turn their attention to complying with the law, 16 percent said they would continue to hold off until after the November elections.

Some nonprofit officials who were not part of the survey say they, too, are continuing to delay preparations, waiting for state courts to weigh in on legal challenges to the rules.

Christina Wessel, deputy director of the Minnesota Budget Project, a unit of the state's nonprofit association that is studying the new law, says charity officials may have also been dragging their feet because of the law's complexity and the political fights surrounding it. Now that the Supreme Court has ruled, however, she says it's time not only to tune in but also to get involved.

"Nonprofits have the responsibility and the opportunity to help make decisions, give their input," she says. "There's still some interpretation and clarification to be done on how exactly rules are implemented, and the exchanges are still being built."

She says that in Minnesota, for example, charity leaders can submit letters or testimony to a committee developing the state exchange. The Internal Revenue Service is also continuing to take comments on some of the law's tax-related regulations, she notes.

Debate Over Costs

For those who have begun to look ahead to 2014, opinions vary as to whether charity employers will end up saving on insurance costs or spending more. Nonprofit leaders describe different scenarios depending on their particular circumstances.

Barry Simon, president of Gilead Community Services, in Middletown, Conn., says that since his group's plan already appears to meet or exceed the minimum requirements for employer contributions and number of employees covered, he doesn't expect Gilead's costs to change.

At Phoenix's UMOM New Days Centers, by contrast, the chief operating officer, Daniel Gottry, estimates that annual insurance premiums for workers at his homeless shelters could rise by 40 percent.

That's in large part due to his guess that as many as 25 employees will join the roughly 100 workers who are already on the employer-sponsored plan. To save money when that happens, Mr. Gottry says, the organization may have to tweak its plan, perhaps increasing the minimum fees employees pay for health-care services.

When Dave Pfeffer, vice president for human resources at Goodwill of Omaha, worked on projections for 2014, he found that it may be cheaper for his group to pay the penalty fee than to put more employees on its plan.

He figures Goodwill will continue to provide coverage for about 150 employees but that about 30 additional employees will choose to buy insurance on the state's exchange. Since Goodwill will face an excise tax of $3,000 for each employee who qualifies for federal subsidies to cover their premium costs, Goodwill expects to pay up to $90,000 in fees, starting in 2014.

If Goodwill added those 30 employees to its insurance rolls, it could cost $120,000—or more, if the employees added spouses or families.

“We owe it to our employees to do what’s best for them, and we need to make sure we can cover our costs, too,” Mr. Gottry says. “That’s why we are looking at this now and not waiting, because these are important budget and strategy decisions.”

Even with planning, it may be difficult to predict the law’s financial impact. For example, a provision of the health-care law that took effect in 2010, extending coverage for adult children up to age 26 on their parents’ policies, left employers worried about the extra expense of covering more people.

But it appears that for a lot of nonprofit groups, many of which already offer family coverage to employees, the additional costs have been minimal. And, observers note, adding people who are young and healthy to an insurance pool can drive premium costs down.

Benefit for Small Groups

Small employers have also benefited from a tax credit provided under the new law since 2010.

The benefit is available to groups with fewer than 25 employees, with average annual wages of less than $50,000, that pay at least half of their employees’ health-insurance premiums. The size of the credit is determined by a formula that includes the number of employees and the cost of premiums.

The National Alliance on Mental Illness of Minnesota applied for the credit and got $3,800 from the Internal Revenue Service for the 2011 tax year. A Leadville, Colo., social-service group called Full Circle of Lake County received $3,000.

But at least tens of thousands of eligible nonprofits have failed to apply for the credit.

A Government Accountability Office study of the tax credit found that 170,300 small employers, including both for-profit and nonprofit, claimed the credit for 2010 from an estimated eligible pool of 1.4 million to 4 million employers.

Experts say the lack of participation is probably the result of concerns about the paperwork involved or the small amount of credit that may be earned. Mostly, though, they say that too few potentially eligible charities understand how the credit works or are aware it exists.

“A lot of this is about education and just getting the word out,” says Ms. Wessel of the Minnesota Budget Project. The Supreme Court’s “decision put the law back on people’s radar screens. Now they have to get moving."

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