PUBLIC EXCHANGES, PRIVATE EXCHANGES AND DEFINED CONTRIBUTION: THE LATEST TRENDS IN MANAGING WELFARE BENEFITS
Disclaimer

This presentation is intended to convey general information and is not an exhaustive analysis. This information is subject to change as guidance develops.

USI does not provide legal or tax advice. For advice specific to your situation, please consult an attorney or other professional.

These materials are produced by USI Insurance Services for educational purposes only. Certain information contained in these materials is considered proprietary information created by USI. Such information shall not be used in any way, directly or indirectly, detrimental to USI and/or their affiliates.

Neither USI nor any of its respective representatives or advisors has made or makes any representation or warranty, expressed or implied, as to the accuracy or completeness of these materials. Neither USI nor their respective representatives or advisors shall have any liability resulting from the use of these Materials or any errors or omission therein. These materials provide general information for the use of our clients, potential clients, or that of our clients’ legal and tax advisors.
Agenda

- Public Exchanges
- Private Exchanges
- Defined Contribution
- Employer Compliance Requirements
Public & Private Exchanges
Public Exchanges

- Public Health Exchanges – managed by a government entity – individual state or federal government

- Public Exchanges have special incentives only available through the public exchange
  - Premium Tax Credits
  - Cost-sharing Tax credits
  - Employers access tax credits through the Public SHOP exchange

- IRS has closed loopholes regarding “cash in lieu of benefits” or other schemes that might have led high risk employees to “migrate” to public exchanges
Private Exchanges

“HR departments today still remain hesitant to adopt a full private exchange model simply because they don’t fully understand them.”

Employers Turn to Private Health Exchanges to Cut Costs

Because this concept is new for most large employers, many are both confused and skeptical.

More firms jumping into private exchange game

The key downside for the employee is having so many options that selecting one is a bit like tossing darts.

“Some policy experts caution that private exchanges for active employees have yet to prove their bottom-line value to employers.”

Private Health Care Exchanges Enroll More Than Predicted

“At least so far, the advantages seem to outweigh the disadvantages when it comes to private health insurance exchanges, according to several consulting firms and health insurers that have established private exchanges or are in the process of doing so.”

Health Insurance Exchanges Off To Slow Start At CUs
Private Exchanges

- What a Private Exchange isn’t!
  - Magic bullet to reduce benefit costs
  - The answer to all your health insurance problems
  - An easy way for employees to get health insurance
  - A solution to help employers reduce health care trend
  - An insurance solution that allows an employer to simply provide financial help for purchasing health insurance
Private Exchanges

- The concepts behind a Private Exchange are not new
  - CHOICE – provide a selection of health insurance options
  - ADVICE – advice and recommendation on what option best fits your needs
  - BILLING – may have some sort of billing component
  - SUPPORT – ongoing support for the chosen plans
Private Exchanges

- What is “new” is the extensive investment in technology behind the private exchange offerings

- Some platforms include decision support where the member answers a series of questions about their current coverage needs (e.g. how many dependents they have, their age or frequency of medical service utilization, etc.)

- Once these questions are answered the system shows them most appropriate options based upon their situation
There are two great myths surrounding private exchanges

- Private exchanges will help employees make smart choices about health care
- Private exchanges will help employers reduce costs over a long term
Private Exchanges

- The myth of the employee as a benefit savvy shopper assumes:
  - People want to shop for benefits
  - When they have more choices they make better decisions
  - People make rational decisions when they buy health insurance
  - Avatars and videos are the best way to convey information
  - Decision support is the key to helping employees
  - Past use (claims data) is the best predictor of future use
It is too soon to tell if Private Exchanges will reduce employer costs over the long term, but consider this example:

- New plans have higher deductibles
- Employer’s Contribution was based on 100% of the HMO plan, now it is based on 100% of the PPO 2000 plan, with employees buying up
- Enrollment shifts dramatically to the higher deductible plans

### Plan Offerings, Rates & Enrollment Distribution: Before

<table>
<thead>
<tr>
<th></th>
<th>HMO</th>
<th>PPO $100 Deductible</th>
<th>PPO $1500 Deductible</th>
<th>PPO $2000 Deductible</th>
</tr>
</thead>
<tbody>
<tr>
<td>% Enrolled</td>
<td>70%</td>
<td>30%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee</td>
<td>$521.28</td>
<td>$603.15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee &amp; Spouse</td>
<td>$1066.63</td>
<td>$1231.27</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee &amp; Children</td>
<td>$969.45</td>
<td>$1117.97</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee &amp; Family</td>
<td>$1552.55</td>
<td>$1797.67</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Plan Offerings, Rates & Enrollment Distribution: After

<table>
<thead>
<tr>
<th></th>
<th>HMO</th>
<th>PPO $100 Deductible</th>
<th>PPO $1500 Deductible</th>
<th>PPO $2000 Deductible</th>
</tr>
</thead>
<tbody>
<tr>
<td>% Enrolled</td>
<td>15%</td>
<td>20%</td>
<td>30%</td>
<td>35%</td>
</tr>
<tr>
<td>Employee</td>
<td>$521.28</td>
<td>$603.15</td>
<td>$468.10</td>
<td>$444.70</td>
</tr>
<tr>
<td>Employee &amp; Spouse</td>
<td>$1066.63</td>
<td>$1231.27</td>
<td>$936.19</td>
<td>$889.38</td>
</tr>
<tr>
<td>Employee &amp; Children</td>
<td>$969.45</td>
<td>$1117.97</td>
<td>$842.58</td>
<td>$800.45</td>
</tr>
<tr>
<td>Employee &amp; Family</td>
<td>$1552.55</td>
<td>$1797.67</td>
<td>$1404.29</td>
<td>$1334.07</td>
</tr>
</tbody>
</table>
The employer was only able to decrease total premium and increase the share they paid of total premium through cost shifting with higher deductible plans.

Total Premium, Employer’s Share of Total Premium & Amount Paid by Employee

<table>
<thead>
<tr>
<th></th>
<th>Before</th>
<th>After</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Premium</td>
<td>$4,524,060</td>
<td>$4,097,398</td>
</tr>
<tr>
<td>Total Employer Cost</td>
<td>$3,819,083</td>
<td>$3,682,062</td>
</tr>
<tr>
<td>Total Employee Cost</td>
<td>$704,977</td>
<td>$415,336</td>
</tr>
</tbody>
</table>
Defined Contribution Strategy
Defined Contribution

- Private Exchanges and defined contributions are often talked about in the same breath
- The employer sets an amount they will contribute to the cost of the benefits and the employees choose which plan/coverage they want to take
- This Defined Contribution amount can be calculated to avoid penalties under the ACA’s affordability provision
- What happens when the premiums increase?
Employer Compliance Requirements
Employer is Still Plan Sponsor

Even in a private exchange or defined contribution environment, the employer is still the plan sponsor

- If employer is subject to ERISA, then all ERISA requirements apply (including plan documents, SPDs, 5500s, all notices and disclosures)
- All COBRA requirements apply
- All HIPAA requirements apply
- All FMLA/USERRA/Medicare requirements apply
- All IRS taxation/125/non-discrimination requirements apply
- Employer will be rated on its own experience – so IRS controlled group rules apply
- All ACA mandates apply, including employer shared responsibility and reporting

If plan design is streamlined, then there’s potential for administrative simplification, but neither the private exchange or any other vendor will be the plan sponsor
ERISA

Plan Documents

- Every plan subject to ERISA must have an ERISA plan document
- Technical and written in “legalese”
- Identifies rights of plan sponsors, including amendment and termination rights
- Discloses terms of the plan, including funding policies, claims procedures, etc.
- Distribute upon request
ERISA

Summary Plan Description Document

- Each benefit subject to ERISA must have a SPD document
- SPDs simply and concisely summarize the plan terms
- No technical or difficult language – must be easily understood
- Clearly indicate terms of eligibility, plan benefits, ERISA rights, plan sponsor contact information, etc.
- Carrier provided certificates of coverage or evidence of insurability generally fall short
- Distribute within 90 days of enrollment, every 5 years thereafter and upon request
Cafeteria Plan (§ 125) Document

- Document must include each pre-tax benefit
- Vendor prepared documents must be reviewed carefully
  - Often do not suffice
- Must reflect latest ACA provisions, including adult child age 26, H-FSA cap, H-FSA and HRA OTC reimbursement limitations
- Generally cannot retroactively amend
- Document should include rules on status changes, including HIPAA special enrollments, funding information and eligibility
Notices and Disclosures

ERISA

- SPDs
- SBCs
- SMMs / SMRs
- SARs
- CHIP
  - [http://www.dol.gov/ebsa/chipmodelnotice.doc](http://www.dol.gov/ebsa/chipmodelnotice.doc)

- WHCRA
  - Due upon enrollment and annually thereafter
  - Can be included in SPD

- NMHPA
  - Must include in SPD
Notices and Disclosures

HIPAA

- Privacy
- Special Enrollment Rights
- Nondiscrimination
  - Wellness program disclosure: if plan terms mention wellness program linked to a health factor, then notice of a reasonable alternative standard required – new model notice provided in 2013 Final Regulations
Notices and Disclosures

COBRA

- General / Initial
  - http://www.dol.gov/ebsa/modelgeneralnotice.doc

- Election Rights
  - http://www.dol.gov/ebsa/modelelectionnotice.doc

- Unavailability

- Early Termination
Other Notices

- Medicare
  - Part D: Creditable coverage notices to participants – due Oct 15
  - Part D: notice to CMS re: creditable coverage status of plan

- FMLA

- Uniformed Services Employment and Reemployment Rights Act

- Exchange/Marketplace Notice
COBRA

General Requirements

- Qualifying Event
  - Loss of coverage PLUS a prescribed event (reduction of hours, termination, etc.)

- Independent Election Rights

- Premiums
  - 102% max
  - Generally can’t change premiums during “determination period” – generally 12 months

- COBRA sets minimum rules
  - Employers can always be more generous
  - Check with carrier (if insured) or stop loss (if self insured)
HIPAA

Privacy and Security

- Generally applies to medical, dental, vision, H-FSA plans
- Applies if self funded
- Applies if fully insured and covered entity receives protected health information (PHI)
- Applies to H-FSA if plan sponsor receives account balances
- If fully insured with no PHI, then can rely on carrier but should have BAA in place with vendors
Affordable Care Act

Select Current and Upcoming ACA Provisions

- Employer Shared Responsibility (30 hr/rule)
  - Affordable and MV coverage to FTEs

- 6055/6056 Reporting

- Taxes and Fees:
  - Reinsurance
  - PCORI
  - Health insurer’s
  - Cadillac plan tax

- SBCs

- 90-Day Wait Period

- Prohibition on Reimbursement of Individual Coverage
What can you do?
What can you do?

- Like CDHPs, cafeteria plans and corporate sponsored wellness programs, think of private exchanges and defined contribution strategies as tools, not solutions.

- The goal should be to engage employees in helping you solve the problem of increasing health costs.

- Design a health benefit program that rewards employees for making smart choices – incent the behavior you want to see.

- Educate, communicate and inform.
PUBLIC EXCHANGES, PRIVATE EXCHANGES AND DEFINED CONTRIBUTION: THE LATEST TRENDS IN MANAGING WELFARE BENEFITS

THANK YOU!