Insight

Reinsurance Fee Exemption: Unions Win, Everyone Else Loses

MARCH 21, 2014

In the administration's latest no-longer-shocking political implementation of Obamacare, HHS has opted to carve out union plans from paying their 2015 and 2016 reinsurance fee. The reinsurance fee is paid by insurance companies in the group market (i.e. employer sponsored insurance) to pad a fund that protects other insurance companies participating in the individual market, which in 2014 has undergone major destabilization as a result of the Affordable Care Act (ACA).

The program acts as a premium stabilization mechanism for the individual market by reimbursing plans for a portion of costs incurred for very sick individuals. In 2014, the "attachment point" after which the reinsurance program contributes is $45,000. All group insurance plans pay into it on a per-insured life basis, including self-insured companies, because the company is acting as the insurance issuer, and/or using an insurance firm to administer and manage the benefits.

Like all taxes, the reinsurance fee is sure to be passed on to employers and employees in the form of a higher premium.

However, the latest HHS rule exempts self-insured plans that do not use a third party administer for the purposes of "claims processing, claims adjudication (including the management of internal appeals), or enrollment." At first glance it does not seem particularly political; but considering the fact that one of the resolutions passed at the AFL-CIO's 2013 convention was to get union plans exempt from the reinsurance fees, and that union plans are the only plans that self-administer, the motivation is clear. HHS even acknowledges in the rule that comments on the proposal pointed out the unfair exemption for unions.

Like many policies that have winners, this one also has losers. The reinsurance fund is mandated to collect a specific amount ($10 billion in 2014, $6 billion in 2015, and $4 billion in 2016) and HHS then calculates the per-insured fee. With a set revenue point, exempting the union plans means that other employers will pay more in 2015 and 2016, and those costs are likely to get passed on to employees as higher premiums and reduced wages.