

Defined Contribution Health Plans

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Background

- Current health care offerings are much like defined benefit pensions – external forces dictate costs
- Employer
 - absorbs bulk of costs (premiums, health care pricing) over which it has little control
 - Heavily involved in plan design and selection



Structure of Defined Contribution Plans

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Defined Contribution Plan Design

- Employer established Health Reimbursement Account
 - Employer contributions only
 - Allow employee to use contributions to purchase insurance (through public or private exchanges)
 - Possibly allow employee to also use HRA to pay for out-of-pocket health care costs
 - Perhaps differential contribution for opt outs (individuals who obtain health care elsewhere)

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Defined Contribution Plan Design

- Concerns
 - Employee contributions are not allowed (need cafeteria plan for difference between contribution and plan costs)
 - Requires careful coordination if HSA/high deductible plan is utilized
 - Questionable availability after 2014 - annual limits prohibition
 - Question whether offsets for public subsidy will be allowed or differential contributions for opt outs
 - Rules/Limitations on carry over of account balances

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Defined Contribution Plan Design

- Employer established cafeteria plan
 - Employee uses credits which are then used to make tax-free contributions to purchase of health plan coverage
 - Consider making this a premium-only cafeteria plan to avoid some non-discrimination rules
 - Allows pretax contributions for coverage (subject to public exchange restrictions) - including purchase of individual plans or coverage

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Defined Contribution Plan Design

- Concerns - Cafeteria Plan
 - Credit use is constrained by employer size for public exchange
 - 2014 - 2017 employers less than 100 employees (some states less than 50)
 - 2017 states may authorize larger employers
 - Questionable offset for public subsidies
 - Requires careful coordination if HSA/high deductible plan is utilized

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Defined Contribution Plan Design

- Exchange
 - Package of several health care and other benefit plan options - various levels of coverage
 - Employer not involved in plan design

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Defined Contribution Plan Design - Public Exchanges



- In 2014 each state will have public exchange
 - Individuals without employer coverage or with unaffordable coverage may go into public exchange
 - Three levels of coverage

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Defined Contribution Plan Design - Public Exchanges



- Individuals with income up to 400% of poverty level receive a cost sharing subsidy

Income % of poverty level	Premium Cap as a % of Income	Income \$ (family of 4)	Max OP Premium	Premium Savings	Subsidy
133%	3%	\$31,900	\$992	\$10,345	\$5,040
150%	4%	\$33,075	\$1,323	\$9,918	\$5,040
200%	6.6%	\$44,100	\$2,778	\$8,366	\$4,000
250%	8.05%	\$55,125	\$4,438	\$6,597	\$1,930
300%	9.5%	\$66,150	\$6,284	\$4,628	\$1,480
350%	9.5%	\$77,175	\$7,332	\$3,512	\$1,480
400%	9.5%	\$88,200	\$8,379	\$2,395	\$1,480

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Defined Contribution Plan Design - Private



- Contract with a private exchange* where employee chooses coverage
 - AON/Hewitt (1000+ employees)
 - Mercer (100+ employees)
 - BCBSM Glidepath (on Bloom engine)
 - Health Partners America
 - Humana
 - Several others including trade associations
 - Currently, 4 - 7 choices of health coverage and various dental/vision options
- *not an endorsement

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Health Care Reform Considerations



- Expanded Group of Employees
 - 2014 - coverage must be available to employees working 30 hours or more
- Determining full time status:
 - At hire, if full time
 - Part timers - essentially measure at three month intervals
 - Annual look back/stability period of 12 months then permitted

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Health Care Reform Considerations



- Plan Entry
 - Can require 90-day wait
 - May exclude classifications (subject to penalties)
 - May set hours requirements for entry - potentially permitting part-timers to enter after completion of set number of hours of service

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Defined Contribution Plan Design



- Penalties for Failures (2014)
 - Must offer all full-time employees health plan coverage or pay a penalty
 - Full-time = 30 or more hours per week
 - Penalty: \$2000 per full-time employee (minus 30 employees)
 - Must offer minimum essential coverage to full time employees or pay a penalty
 - Employee contribution no more than 9.5% of employee's household income
 - plan must pay 60% of covered costs
 - Penalty: \$3000 per employee who obtains subsidized coverage through exchange

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Defined Contribution Plan Design

- Choices
 - 2013 - Private Exchanges - Cafeteria Plan
 - 2014 - 2017
 - Potential bifurcation for small employers - using cafeteria plan
 - Less than 400% Poverty - Public Exchange offsetting contribution for subsidy
 - All others private exchange may need to bring some middle management to private exchange for personnel reasons and nondiscrimination eligibility classification requirements
 - HRA may not be available
 - Large employers private exchange only
 - 2017 - with State Action Bifurcated Plan for employees of large employers

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Pros and Cons of Defined Contribution Plans

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Pros of Defined Contribution Health Plans



- Transforms an unlimited benefit promise to a fixed contribution amount with contribution and cost certainty
- Enables Michigan public employees certainty in meeting the cost/hard cap requirements
- \$15,000 family, \$11,000 double, \$5,500 single coverage or, if elected, 80% of cost

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Pros of Defined Contribution Health Plans



- Limits employer involvement in Plan Design details
- Greater employee choice of options
- Fiduciary liability minimized duty to prudently select exchange and monitor provider costs
- Eventual avoidance of Cadillac Plan Excise Tax

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Cons of Defined Contribution Health Plans



- Will employees find them acceptable?
 - Will they be confused by choices?
 - Will rate increases become too burdensome?
- Will employees get the same value?
 - Are these just individual policies?
 - Are “group rates” comparable to rates when employer is the buyer or self-insurer?

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Cons of Defined Contribution Health Plans



- Potential adverse selection?
 - Will healthy employee migrate to cheapest, least comprehensive options, making more comprehensive policies unaffordable?
- What if others in industry don't make the same move?
 - Will it be a competitive advantage or disadvantage in the labor market?

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Cons of Defined Contribution Health Plans

- Legal uncertainties
 - Is it deductible as a health plan or as salary?
 - Are the benefit programs subject to COBRA and other federal mandates that apply to employer health plans?
 - How do nondiscrimination rules apply?
- Some designs may expose you to Health Care Reform employer responsibility penalties.

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ERISA and Tax Code Issues

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How are Employer Contributions Treated?

- Do employer contributions and benefits qualify under Tax Code Sections 104, 105 and 106?
- Implications:
 - Exempt from FICA and FUTA withholding requirements?

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How are Employee Contributions Treated?

- Is coverage purchased through an exchange a qualified expense under a cafeteria plan?
- Implications:
 - Can employees pay their share on a tax-free basis?
 - Answer depends on whether use private or state exchange!

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What is the Health Plan?

- Is it just the HRA?
- Or does it include the health coverage selected by the individual with Employer Credits?
- Implications:
 - ERISA Plan/SPD requirements
 - Health Care Reform requirements
 - COBRA requirements
 - HIPAA nondiscrimination requirements (prohibits variation in premiums based on health factors)
- Will Selection of particular private exchange be subject to ERISA fiduciary responsibility requirements?

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Does It Satisfy the Employer Mandate?

- Does the coverage count as minimum essential coverage?
- Is the coverage affordable?
- Does the coverage provide minimum value?
- Implications:
 - Does it count as coverage at all, or will employer be subject to \$2000 per employee penalty?
 - Will some employees qualify for subsidized coverage on state exchange—resulting in \$3000 penalty per subsidized employee?

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Offsets for Subsidies?

- Is this a self-funded or an insured health plan?
- Employee contributions through a cafeteria plan?

- Implications:
 - Can you send some individuals to the state exchange?
 - Can employer contributions vary?
 - Do you need to maintain different plans for different groups of employees?
 - Could multiple plans pass nondiscrimination tests?

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Recommendations

- Treat HRA/§125 or combination with exchange coverage as the plan
- Contract with a private exchange for group coverage
 - COBRA
 - HIPAA
 - ERISA requirements
- Can use cafeteria plan for employee contributions with private exchange
 - Small employers can also use with state exchange

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Recommendations

- Keep affordability requirements in mind when establishing employer contributions.
- Simplest to offer to all full-time employees
 - nondiscrimination rules
 - Restrictions on cafeteria plan

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Questions?

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