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## **Will Self-Funded SHPs Meet Minimum Essential Coverage Requirements?**

The Centers for Medicare & Medicaid Services (CMS) have proposed a new rule (CMS-9958-P) that would result in self-funded student health plans (SHPs) meeting minimum essential coverage requirements: "Even though [self-funded] student health plans are not individual or group market coverage, they are subject to certain consumer protections. Accordingly, individuals who wish to remain in these plans should not be subject to the shared responsibility payment under section 5000A of the Code."

The ACA requires individuals who do not meet the exemption requirements and do not maintain minimum essential coverage to submit an additional payment with their federal income tax return. Section 5000A of the Internal Revenue Code (the Code) currently defines several government sponsored programs, employer-sponsored plans, individual plans (which include fully insured SHPs), and grandfathered health plans as minimum essential coverage. The Code also allows for the Secretary of Health and Human Service to declare other health plans that do not fall into these categories, but offer comparable coverage, to be defined as minimum essential coverage.

Self-funded SHPs are not currently subject to the same PPACA regulations that apply to fully insured SHPs because the Department of Health

and Human Services (HHS) does not have authority to regulate self-funded plans. Self-funded plans, including self-funded SHPs, are regulated by the States.

In this proposed rule, CMS suggests a method for evaluating other health plans and clarifies that, "Coverage recognized as minimum essential coverage through this process would need to offer substantially the same consumer protections as those enumerated in the Title I of Affordable Care Act relating to non-grandfathered, individual coverage to ensure consumers are receiving the protections of the Affordable Care Act."

CMS further suggests that self-funded SHPs (in addition to four other types of coverage) specifically be defined as minimum essential coverage because they "have been in existence for a significant period of time. Although they vary in scope, they each provide a meaningful level of coverage that meets certain fundamental health needs for the people who are enrolled and protect against catastrophic losses...This proposed rule would allow these individuals to keep their current coverage without incurring the shared responsibility payment for not maintaining minimum essential coverage, and would ensure that such coverage includes consumer protections."

## **ACA Taxes for SHPs**

The ACA tax provisions, including the Health Insurer Fee, the Traditional Reinsurance Contribution Program, and the Comparative Effectiveness Research Fee, will be included in 2013-2014 insurance premiums.

The Health Insurer Fee is a fixed-dollar amount distributed across health insurers: \$8 billion in 2014, increasing to \$14.3 billion in 2018, and then increasing later based on net premium growth. Insurers will be responsible for a portion

of the fee based on their market share. Self-insured plan premiums are exempt from this fee. Oliver Wyman and the National Federation of Independent Business analyzed the potential impact of this fee in 2011, estimating that individual premiums will increase by 2%-3%.

The Transitional Reinsurance Contribution Program imposes a tax on insurers and self-insured plans to help stabilize insurance premiums as high-risk individuals are allowed to

*(continued on page 2)*

**ACA Taxes (Cont'd)**

enroll through the individual market. To support this program, Health and Human Services (HHS) proposed an aggregate fee of \$25 billion from 2014 to 2016 (CMS-9964-P). The proposed regulations projected the national contribution rate to total \$63 per covered life for 2014.

The Comparative Effectiveness Research Fee will apply to fully-insured and self-insured plans. The fee will fund research that determines the effectiveness of various forms of medical treatment. The Internal Revenue Service (IRS) issued its final rule on this provision on December 5, 2012. The fee is an additional \$1 per covered life for 2012-2013 plans due in 2014, \$2 per

covered life for 2013-2014 plans due in 2015, and then may increase depending on research needs until 2019.

The Student Health Plan (SHP) tax assessment expense increase will depend upon the premium of the SHP. The lower the premium, a higher percentage of tax will apply. For example, taxes totaling \$75 would result in a 5% increase for a premium of \$1,500, versus a 3% increase for a \$2,500 premium.

In addition, most insurance companies are prorating the assessments for 2013-14 policy years because taxes apply commencing with calendar year 2014.

**State Individual Market Risk Pools & SHPs**

A proposed rule (CMS-9972-P) submitted by the Centers for Medicare & Medicaid Services (CMS) in late November 2012 suggests that Student Health Plans (SHPs) "be included in an issuer's individual market single risk pool."

In response to CMS's request for comments on the proposed rule, The American Council on Education (ACE) and the American College Health Association (ACHA) expressed concern that the proposed regulation would ultimately result in SHPs becoming cost-prohibitive.

One of the primary reasons for the proposed rule is the fear that, "Without a single risk pool rule, these prohibitions against traditional underwriting could incentivize issuers to find ways to segment the market into separate risk pools and charge differential premiums based on segmented risk, a de facto mechanism for underwriting."

According to ACE, however, this concern is not applicable to SHPs because (1) SHPs are already limited to students and their dependents, (2)

students cannot be denied SHP coverage due to health factors, and (3) premiums are not determined on an individual basis for students or their dependents.

Both ACE and ACHA expressed considerable concerns that the proposed rule would increase SHP premiums to such an extent that the rule would oppose Congress's intent to ensure that SHPs remain viable options to be offered by institutions of higher learning.

ACHA explains how the proposed rule would negate many of the ways in which SHPs keep premiums down while providing quality coverage: "Student health insurance pricing is based on consideration of several factors, including the experience rating of the plan, its partnership with low cost, high quality care through on-campus health services, and the size and demographics of the student population within the institution...These considerations would be obviated if issuers were compelled to include SHIC in a single individual market risk pool."

**About Our Organization...**

University Health Plans (UHP) is a leading benefit brokerage/consulting firm specializing in the design, brokerage, and service of College and University student health insurance programs.

Using a team approach, UHP currently manages the student health insurance programs for over sixty-five colleges and universities.

We specialize in managing student health insurance programs, in addition to offering ancillary programs such as sports and travel assistance. Student health insurance is our only line of business so we devote 100% of our energies and resources to ensure cost effective student health insurance with superior customer service.

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