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(Business Owner Strategy Sessions)

Healthcare Reform: *How will your business be affected?*

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Speaker: Bruce Davis



Health and Group Benefits Consulting National Practice Leader

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Election 2010 Highlights



- U.S. House of Representatives
 - Current Make-up: 257 D/178 R
 - In January: 239 R/190 D (6 races still undecided)
 - Republican margin will be smaller than the current Democratic margin
- U.S. Senate
 - Current Make-up: 59 D/41 R
 - In January: 53 D/47 R

Election 2010 Highlights



- 52 incumbent House Democrats defeated, including 3 Committee Chairs
- 94 new members of the House (85 Republicans)
 - 21% of the House members will be Freshmen
 - Education needed on Retirement and other Benefit-related issues
- 12 new Republican Governors
- 19 state legislatures switched to Republican control
 - Republicans will control Governorship & both legislative bodies in 20 states (up from 9; includes OH)

Election 2010 Highlights



- Of the 52 Democratic incumbents who lost, 35 voted “yes” for the PPACA
- Many moderate/conservative or “Blue Dog” Democrats lost
 - The House & Senate will be sharply divided between liberals and conservatives

What Can We Expect?



- Speaker-to-be John Boehner will control the agenda and make the rules in the House
 - May have more difficulty with new conservative Republicans (many identified with the “Tea Party”) than with liberal Democrats
- Senate Majority Leader Reid has a tough job (Lieberman, Nelson & Manchin are independent, fiscal conservatives who may occasionally side with Republicans)
- Minority Leader McConnell is in a good position
 - Can lose Collins, Snowe and/or Brown on some votes and still sustain a filibuster

What Can We Expect?



- **Confrontation or Compromise in DC?**
 - Both the President & Congress will keep their eyes on opinion polls
 - Can they avoid the type of gridlock that leads to a shutdown of the Government?

What's Next for the PPACA?



- Republican's Pledge to America: Repeal and Replace the PPACA
 - Repeal “Job-Killing Mandates” such as 1099 reporting for purchases > \$600
 - Medical liability reform
 - Purchase coverage across state lines
 - Empower small business with greater purchasing power
 - Expand HSAs (and be able to use it for OTC Rx)
 - Protect the Patient-Doctor relationship
 - Ensure those with PECs have access to coverage
 - Eliminate annual and lifetime “spending caps”
 - Prohibit termination of health coverage based on health status
 - Permanently end taxpayer funding of abortion & protect conscience of health care providers
 - Fight efforts to fund the PPACA

What's Next for the PPACA?



- HR 1, 2, or 3: House will likely repeal the PPACA
 - This is not 1988 (repeal of Medicare Catastrophic Coverage Act)
- Democratic Senators will object/filibuster
 - Even if the Senate were to also repeal the PPACA, neither the House nor the Senate have 2/3 majorities to override a Presidential veto
- House will then try to restrict \$\$ to implement the PPACA through the Appropriations process (but Democratic Senator Tom Harkin will control Appropriations in the Senate and block this move)
- House will hold many hearings and pass resolutions of disapproval to defeat HHS/DOL/Treasury PPACA-related regs, but that tactic has rarely been used

What's Next for the PPACA?



- Focus will shift to the States
 - AZ passed Proposition 106 to block the individual mandate)
- GOP Governors & State Legislatures can slow down or re-shape PPACA implementation
 - Not fund the Health Insurance Exchange (but Feds would step in if State is non-compliant)
 - Medicaid Expansion (Texas is considering opting out)
 - Join lawsuits challenging individual mandate & unfunded Medicaid mandate
- If Congress turns more authority over to the states, ERISA pre-emption for self-funded employers becomes vulnerable
- President Obama has signaled he is willing to repeal 1099 requirement, but nothing else; “fix strategy” will lack widespread bipartisan support
- The future of the PPACA depends on the 2012 elections

Other Considerations



- National Commission on Fiscal Responsibility Recommendations (12/2010)
 - Employer-sponsored plans are a source of \$\$ to reduce deficit, debt, or support for Medicare/Social Security
 - Exclusion of employer contributions for medical coverage worth \$177 billion in FY 2011 tax expenditures)

What's a Small Business Owner to Do?



- Does providing health benefits support your business strategy? Can you afford it? If yes....
- Can you take advantage of the tax credits to purchase group health insurance?
 - Full credit is available to employers < 10 EEs and avg. annual wages of < \$25K
 - For 2010 credit is up to 35% of employer's contribution for health insurance, so long as employer pays at least 50% of the total premium
 - Credit phases out as the size of the business and avg. annual wages increase
 - Credit not available to employers > 25 EEs or if avg. annual wages > \$50K
 - This is a disincentive to grow the business
 - Families USA survey: only ¼ firms < 25 EEs will qualify for full credit

What's a Small Business Owner to Do?



- If more than 50 EEs, is it better to drop coverage and pay the \$2,000 penalty?
 - Some models show it may be more cost effective to provide less subsidy than no coverage at all
 - Must consider the number of EEs eligible for federal subsidies
- Your Plan's Eligibility Provisions
 - Will you cover both employees and dependents?
 - Will you exclude working spouses?
 - What about your employee?
 - What about the children if the spouse's birth date precedes that of your employee?
 - Will your workforce strategy change to use more part-time employees? If so, consider offering limited medical and voluntary work place benefits to provide assistance with medical expenses
- Cost Sharing: What % of costs should be paid by employees for Single coverage? Family Coverage?

What's a Small Business Owner to Do?



- Evaluate group purchasing opportunities (Chamber plans, ERC, other Associations)
 - Some carriers supporting these plans have offered meaningful wellness incentives and caps on renewal increases
- Consider a High Deductible Health Plan coupled with a Health Savings Account
 - In 2014 the maximum deductible for small employers under the PPACA is scheduled to be \$2,000 Single/\$4,000 Family; if PPACA is not repealed with this rule be changed?
- Now that some individual market reforms are implemented, consider a defined contribution approach; may vary contributions based on longevity, so long as not discriminatory in favor of HCs

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Q & A