Health Care Reform Begs the Question, Continue Covering Spouses, Yes or No?

So-called spousal exclusions are quickly gaining popularity, with 4 percent of employers with at least 1,000 workers using them in 2013 and an additional 8 percent expected to enact such restrictions next year, according to a survey by the National Business Group on Health and consulting firm Towers Watson. Other companies, including Xerox, are preserving spousal benefits but slapping surcharges on them. In 2013 20 percent of large employers applied such surcharges, and another 13 percent expect to introduce them in 2014, according to the survey.

ACA regulations require that medical coverage be offered to full-time workers and their children at large businesses (with 50 or more employees), but do not dictate that spouses be offered benefits. Coverage must meet affordability standards based on the cost of individual coverage for the employee, and as a result, it makes more sense for spouses of workers to rely on their own companies for health insurance.

The ACA includes several provisions that could make spousal exclusion attractive.

1. One example is the so-called Cadillac tax on high-cost insurance plans, which slaps a 40 percent levy on family plans worth $27,500 or more.
2. For the next three years, most large businesses (> 50 employees) will pay a fee — $63 the first year — for each person they cover. That could translate to millions in savings if spouses are dropped from a large employer's insurance rolls.

There are three options to consider: exclude spouses altogether, exclude spouses who have other coverage, or charge a higher premium for those with other coverage. The obvious cost savings are clear; additional considerations –

	Pros	*Cons*
Exclude spouses altogether	• Reduces enrollment volume • Allows spouses who qualify to obtain a subsidy through their local marketplace (Exchange) via Individual insurance	• Sends disparaging message about family values • Complicates employees' administration of their family's medical needs, e.g. likely to have different provider networks, plan designs, etc.
Exclude spouses with other coverage	• A more palatable change, with less negative impact on culture	• Increases HR administration to monitor spousal eligibility
Charge a higher premium for those with other coverage *Studies indicate that $600 to $1,200 in annual costs on top of premiums is necessary to have an impact on election choices*	• Increases revenue to pay plan costs • Spouse's claims on Employer's plan are paid on a secondary basis to Spouse's plan	• Increases HR administration to monitor spousal eligibility

A loss of coverage for the spouse will trigger a HIPAA special enrollment. Therefore, if an employer implements a spousal carve-out, HIPAA would still require the spouse's employer-sponsored plan to allow the spouse to enroll in that plan. The implementation of a spousal surcharge; however, does not trigger a HIPAA special enrollment and would not require the spouse's employer to allow a mid-year enrollment. While the loss of coverage is a qualifying event for HIPAA purposes, employers should be aware that the loss of eligibility due to a plan change is not a COBRA qualifying event for the spouse.

When instituting a working-spouse policy, employers should consider how it will affect such items as corporate culture, employee morale and attraction and retention.

January 2014