What the New Healthcare Law Means for Manufacturers

Ever since President Obama in late March signed into law the two legislative measures that now comprise the new health care reform law, companies and individuals alike have been scrambling to figure out what exactly it will mean for them.

At the moment, the jury is still out. It will take time for industries and analysts to figure out the real impact of the new, massive healthcare overhaul – and even then, its effects will largely depend on the individual circumstances of businesses and taxpayers. There also has rarely been a significant law initiated by one Congress that a future Congress doesn't change – and it's impossible to predict those changes. But here are some initial observations:

The combination of new mandates, penalties and tax increases (estimated at $520 billion), which take effect at different times over a decade, is expected to increase costs for many companies, including those with more than 50 employees that continue to offer employee and retiree health insurance:

- Caterpillar, Deere and other companies that will lose tax deductions on federal subsidies to provide retiree drug benefits as a result of the law face "one-time charges (for Deere) totaling $150 million, or 12% of its 2010 profit forecast. Caterpillar put the damages at $100 million." (*MarketWatch*, 3-25-10) More than 3,500 U.S. companies now receive the subsidies as incentives to provide retiree drug coverage, and predictions are that "as many as 2 million (retirees) could lose the prescription drug coverage provided by their former employers, leaving them to enroll in Medicare's program." (*AP*, 3-25-10). Should that occur, the already ailing Medicare program will face even greater cost burdens in the coming years.

- A new 2.3 % excise tax on the sale of any taxable medical device, effective 2012, could create a situation for medical device producers in which "many companies will owe more in taxes than they generate in profits, requiring companies to layoff employees, cut R&D budgets and slow the development of new therapies that will improve the quality of care for all Americans." (Medical Device Manufacturers Association, 3-10-10, concerning the new tax on medical devices. Manufacturers of medical devices would pay $2 billion in 2011 and $3 billion after 2017, allocated per company by market share.)

On the other hand, some companies with 50 or more employees that now offer health insurance may find it more profitable to end that coverage as a result of the new law. The federal penalties for not providing insurance may cost less than providing it:

- An estimated 97% of manufacturers provide healthcare insurance to their employees. For AMT members, the medium cost of that, based on a 2009 survey, was $6,192 per employee in 2008, with total insurance costs representing 2.2% of sales. Yet under the new healthcare law, the medium cost could drop to $2,000 per employee in federal fines should a company with 50 or more employees decide not to offer healthcare insurance at all and any of its employees ended up receiving federally subsided insurance (the first 30 employees are exempt from the $2,000-per-worker calculation.)

- "(A) number of midsize employers are thinking they will drop coverage because it will be more economical, given the penalties, and the employees would still receive coverage," says Dean Hatfield, senior vice president and health-practice leader at Sibson Consulting." (CFO magazine, 2-1-10)

- The new law also penalizes companies with 50 or more employees that want to continue offering health insurance coverage if even one of their employees opts not to take the company-offered insurance and ends up on subsidized insurance instead. Under that scenario, the company would be faced with federal fines of up to $3,000 per subsidized employee – a situation that some low-income advocates worry will discourage employers from hiring anyone who could potentially qualify for subsidized health insurance coverage. *(The Hill's Congress Blog, 5-5-10)*

Smaller companies may find they can offer employee healthcare insurance at much less than current costs if they join the new small business state "exchanges" due to be available in 2014 for companies with under 100 employees. Those exchanges – the Small Business Health Options Program (SHOP) -- will theoretically create buying pools to allow companies to purchase more affordable insurance. But that assumes that states will have the resources to create these online exchanges and have them running by 2014. The new law provides federal aid to help them do this, but many states already are facing massive budget shortfalls, and the new healthcare law will only add to those woes by expanding Medicaid – which could pile billions of dollars onto states' costs, resulting in the need for higher state taxes. (*Bloomberg.com*, 3-23-10)

Among its slew of provisions, the new law also imposes a first-ever Medicare tax (3.8%) on non-payroll investment income earned by single taxpayers earning more than $200,000 yearly, and married taxpayers earning more than $250,000 – a level that could well impact many businesses that pay taxes through the individual, as opposed to the corporate, tax rates.

Two of the greatest concerns voiced about the healthcare overhaul are its reach and its ultimate costs – to the federal government, to state governments, to businesses, to individuals. And since the new law, with all its mandates and requirements, is ultimately expected to push healthcare premiums up, not down, for many businesses, the jury will remain very much out on the economic impact of the law for some time to come.

Below are links to documents that explain key provisions for businesses, and when they become effective:

Timeline for Healthcare Reform
2010 Employer's Guide to Health Care Reform by Keller Benefit Services
HealthReform.gov Official US government site provides ongoing news/information about health care reform.