

are advised to consult with legal, accounting and other professional advisors before committing to a self-funded plan.

Self-Funded Health Benefit Plans: THINGS TO CONSIDER

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Is Self-Funding Right for You ?

Self-funding healthcare benefits may not be the right approach for all employers. To assist you in determining whether self-funding is right for your organization, you should consider the following:

Increased Administration for Employers

Self-funded plans require the employer to actively participate in developing and administering the plan. Plan Documents and rules must be developed by the employer to create the plan design. In addition, the employer must fund claim payments, either by setting up internal systems to process claims and payments, or by contracting with a third party to perform this function.

Cash Flow

Fluctuations in claim payments and cash flow demands are an inherent aspect of self-insured medical plans. In some months claims may fall below expected levels, while in other months claims may exceed the expected amount. Employers considering self-insuring must consider the cash flow demands they can experience in comparison to the level monthly premium of an insurance policy.

- Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- Various budget reconciliation acts such as the Tax Equity and Fiscal Responsibility Act (TEFRA), Deficit Reduction Act (DEFRA), and Economic Recovery Act (ERTA)

Employers opting to self-fund employee health benefits can subject themselves to various regulatory and private legal actions for failure to comply with applicable laws.

Conclusion

Ultimately, the decision to self-fund a health plan depends on an employer's willingness to manage benefit administration and tolerance for risk. If the claims costs are lower than expected, the employer may save money. On the other hand, if claims costs are higher than expected, the employer may pay much more to fund health benefits than it would have paid for a conventional employee health insurance policy. Rising healthcare costs, legal expenses and other factors outside the employer's control, can affect the cost of a self-funded plan. In addition, stop-loss policies to protect self-funded employers do not always provide the safety net expected, as medically expensive enrollees and cumulative or aggregate cost amounts can be excluded from coverage under the stop-loss policy. Employers considering a self-funded employee benefit plan

Legal Liability

Under a health insurance policy, the insurance company bears the legal responsibility for compliance with state and federal laws. Conversely, under a self-funded plan, violations of the law can result in penalties and legal judgments imposed on the employer for non-compliance. With self-funded plans, the employer acts like an insurance company and assumes responsibility for compliance with federal and state labor laws regarding employee benefit plans. This in turn may create added expense for legal services.

Compliance

Depending on the company's business and size, a number of federal laws may apply to self-funded health plans, including:

- Employee Retirement Security Act (ERISA)
- Consolidated Omnibus Budget Reconciliation Act (COBRA)
- Americans with Disabilities Act (ADA)
- Pregnancy Discrimination Act
- Age Discrimination in Employment Act
- Civil Rights Act

"Spikes" in claim demands, alone or in relation to other business expenses can create cash flow problems for the business if the plan is not adequately funded. Although stop-loss insurance arrangements can mitigate swings in cash flow, most monthly aggregate reinsurance contracts impose a cumulative cap on the monthly expenses that are covered, and do not pay claims costs over the cap.

Terminal Liability Obligation (Run-out)

Employers considering self-funding need to develop a realistic projection of likely claims. If the quote received for a self-insured plan is due to aggressive marketing or underwriting, the plan may perform below expectations. This could result in a significant increase in costs at renewal. If the employer then decides to return to a fully insured plan, the employer will be required to pay the premium for a health insurance policy as well as the remaining "run-out" (previously incurred claims liability) for the self-insurance. Thus, an employer may need to fund claims incurred prior to the plan's termination, while simultaneously paying for a fully insured policy. The amount of the "run-out" usually includes a minimum of 3 months of claims expense (and often 6 months or more), plus any administrative costs, and may take several months to fully reconcile.