

Re-Thinking Wellness Programs: Using Wellness to Transform Employer Sponsored Care

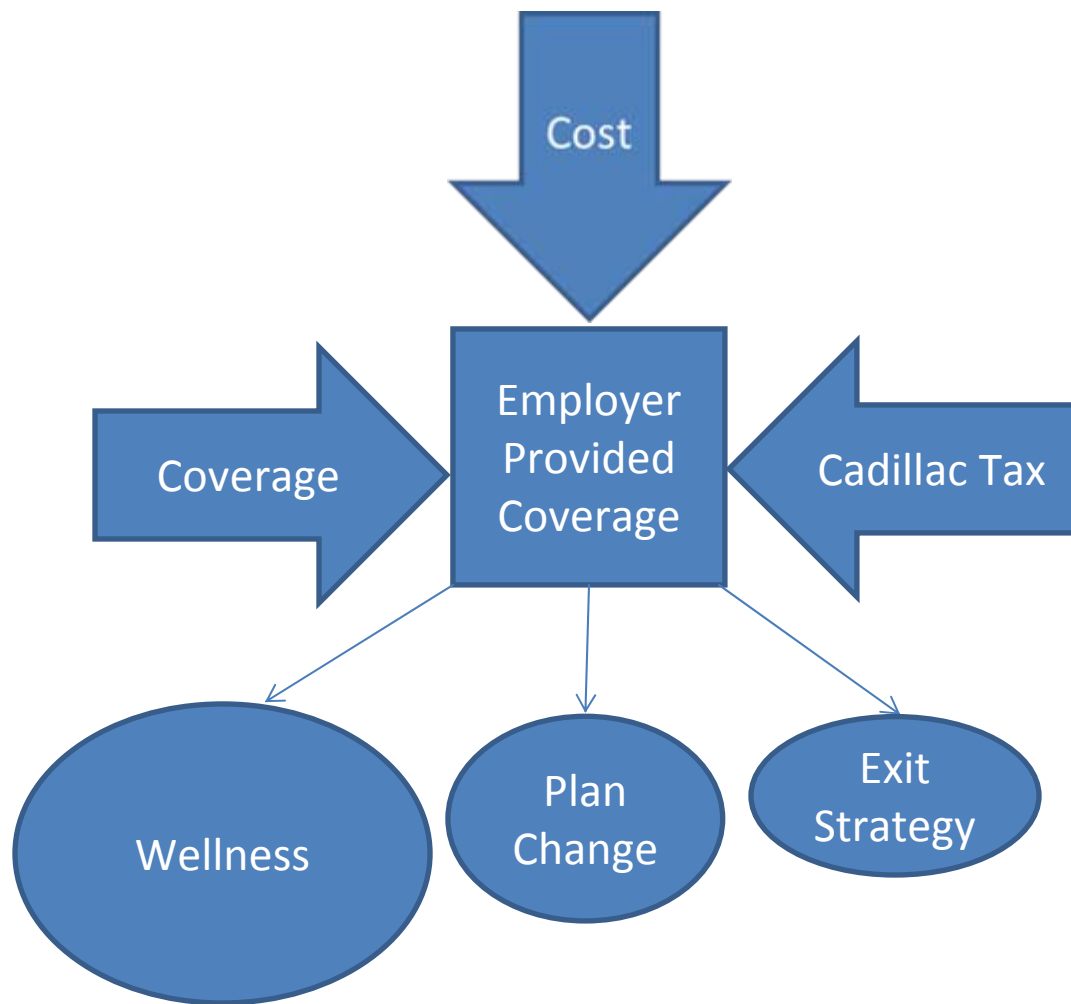
Bundled Payment Summit

June 4, 2015

Agenda/

- Post ACA Reality for Employers
 - More cost, more coverage, more employees
- The Cadillac Tax
 - The ACA table has been cleared, its time to get in shape...
- Wellness as a Vehicle for Innovation
 - From Cadillac to Prius?

Decision 2018/



ACA/

Coverage and Cost

- The Shared Responsibility provision provides that “applicable large employers” with 50 or more full-time (including full-time equivalent) employees are potentially subject to a tax penalty if any “full-time employee” receives a premium tax credit or cost-sharing reduction to purchase coverage through an Exchange
- Full-time employee is eligible for a cost sharing subsidy if:
 - An employer does not offer at least 95 percent of its full-time employees (and their dependents) the opportunity to enroll; or
 - An employer offers its full-time employees the opportunity to enroll but coverage is “unaffordable” or does not provide “minimum value”

ACA/

Reform and Cost

- ACA is more “coverage” than “reform” but...
- Health insurance standards created by ACA include:
 - Wellness
 - Essential Health Benefits
 - Pre-Existing Conditions
 - Rescissions
 - Lifetime/Annual Limits
 - Claims and Appeals
 - Preventive Care
 - Dependent Coverage
 - Rate Review
 - Prohibition on Excessive Waiting Periods
 - Among many others...

ACA/

The Post-ACA Reality For Employers

- Today most employers must provide a more rich benefit package to more employees
 - ACA plan change was done with compliance in mind, not long term sustainability of plan

Looking Ahead...

Cadillac Tax/

Law of Unintended Consequences

- Revenue
 - As one of the Affordable Care Act's principal "pay-fors," the Cadillac tax was initially expected to raise \$137 Billion in the first 10 years.
 - After examining recent cost trends in employer-sponsored health benefits, that estimate was revised, and now CBO expects the Cadillac tax will generate about \$80 billion over the next 10 years
- Purpose/Debate
 - Health economists for some time have argued that rich benefit structures create price insensitivity in consumers who demand more and more expensive services
 - Consumers, plans, and providers need "skin" in the game for reform to work.
 - Does the Cadillac tax achieve this?
 - Cadillac Tax will end top hat plans offered to executives as income shelter
- Opposition arguments: single payer time bomb, employer ante at health reform table.

Cadillac Tax/

The Reality

- The Cadillac tax will affect fairly modest plans and could be a significant burden on all employers
 - State governments, unions, employers all subject to tax
 - Recent Study: Roughly 50% in 2018, over 80% in 2023
- Takeaway: While final regulations implementing this provision are still away off, plans and employers will need to take action in the near future to avoid penalties.
 - Long term avoidance requires more than benefit buy downs
 - Need strategy combining patient engagement with provider and plan strategies
- Takeaway: Because so much of the Cadillac tax is statutory, legislation is needed to fix.
 - Potential for broad based coalitions
 - Safe harbors vs repeal
 - How would revenue be recaptured

Cadillac Tax/

The Basics

- Beginning in 2018, employer-sponsored plans will be subject to a 40 percent non-deductible excise tax on the dollar amount of coverage that exceeds certain specified thresholds.
 - Was originally slated to take effect in 2013 and original thresholds just indexed to 2018 dollars.
- 2018 threshold for individual coverage is \$10,200 and the threshold for family coverage is \$27,500.
 - Adjusted by “health cost adjustment percentage”
 - Adjusted upwards for early retirees and individuals in high-risk professions
 - Indexed for inflation
 - Multiemployer plans will be treated as family coverage for purposes of the Cadillac tax.

Cadillac Tax/ How Does It Work?

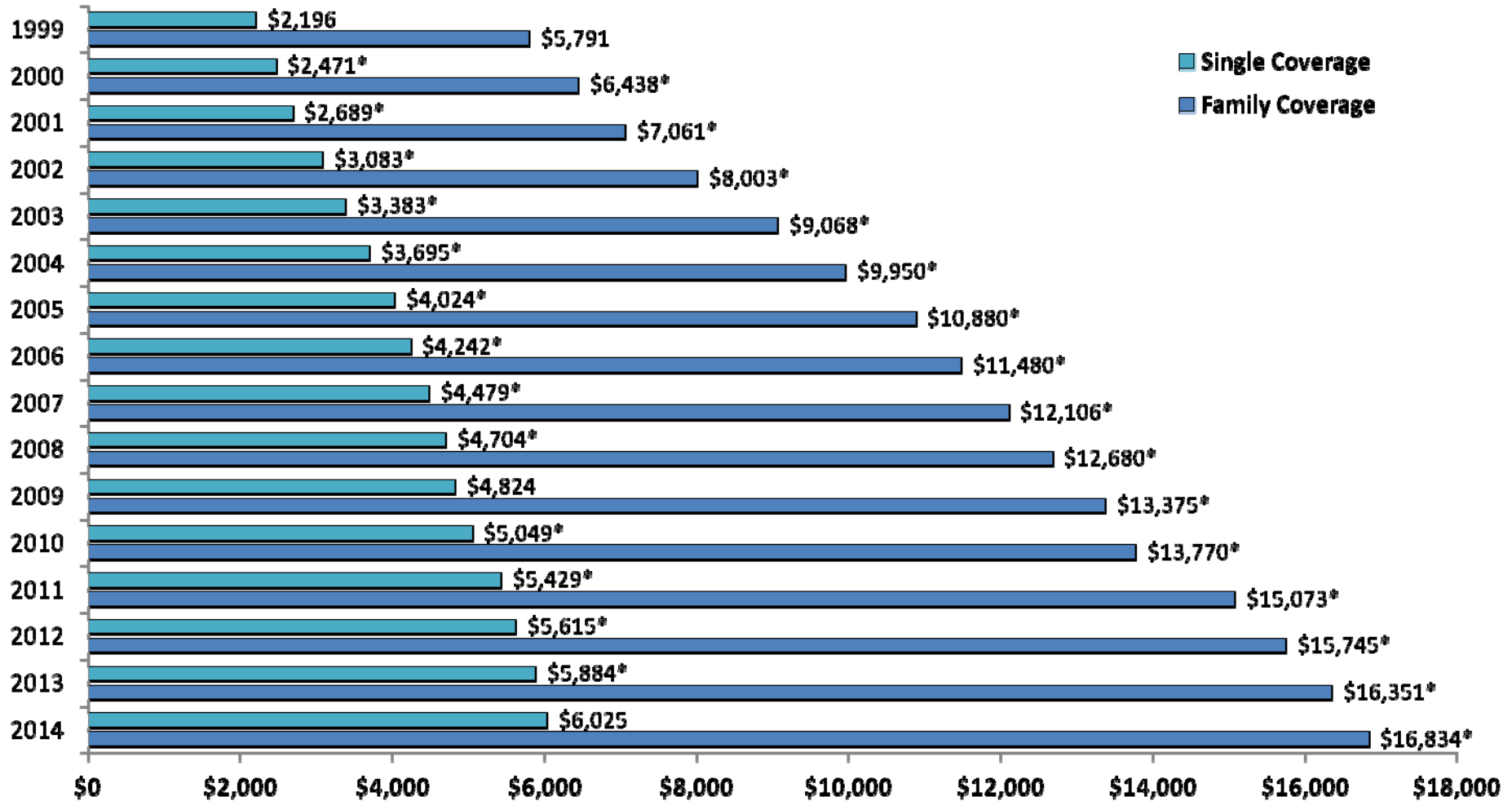
- The Cadillac tax applies to the dollar amount that exceeds the specified threshold using the following formula:
 - “The aggregate cost of the applicable employer sponsored coverage of the employee for the month, over
 - An amount equal to 1/12 of the annual limitation for the calendar year in which the month occurs.”

- Example: If an employer offered individual coverage that cost \$12,000 per employee, the excess amount for a month would be calculated by $(\$12,000 / 12 \text{ months}) - (\$10,200 / 12) = \$150$. Therefore, the employer would be taxed 40 percent of \$150, or \$60 per employee per month. Over a year, the Cadillac tax liability per employee would be \$720.

Cadillac Tax/ Thresholds: Indexing

- In 2019, thresholds are indexed for CPI-U, plus one percentage point, rounded to the nearest \$50.
- Beginning in 2020, the threshold amounts are indexed to the CPI-U, rounded to the nearest \$50.
- Problem: Medical inflation has historically grown faster than CPI-U
 - Holding everything constant plans will come closer to threshold by virtue of indexing
 - Holding everything constant if subject to the tax the amount will grow each year

Average Annual Premiums for Single and Family Coverage, 1999-2014



* Estimate is statistically different from estimate for the previous year shown ($p < .05$).

SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 1999-2014.



Cadillac Tax/

What Benefits are Included?

- The Cadillac Tax applies to “applicable employer-sponsored coverage.”
- Applicable employer-sponsored coverage includes coverage under any group health plan made available to the employee by an employer which is excludable from the employee’s gross income or would be excludable if it were employer-provided coverage.
 - Major medical coverage and coverage provided under account-based plans (e.g., FSAs and HSAs) are likely includable in the calculations.
 - Unclear if other benefits such as wellness programs, EAPs, telehealth, or on-site clinics will be includable.
 - Coverage for long-term care, stand-alone vision and dental, and non-coordinated benefits (e.g., hospital indemnity) are exempt.
- Coverage treated as applicable employer- sponsored coverage without regard to whether the employer or employee pays for the coverage.

Cadillac Tax/

How is Cost Calculated

- Until the final regulations are released it is unclear how the cost of applicable employer-provided coverage will be calculated.
- The ACA does say that the cost of coverage will be determined under rules similar to the rules used for calculating cost of coverage under COBRA.
- IRS Notice 2015-16:
 - Aggregated by benefit package enrolled in
 - Disaggregated by self-only or other-than-self-only
 - Permissive disaggregation
 - Broad standard- bona fide employment based categories (job categories, collectively bargained)
 - Specific standard- (geographic distinctions)

Cadillac Tax/ Employer Response

- A fight for our life:
 - Given the indexing issue if thresholds are hit it is unlikely that the plan will continue to offer coverage.
 - Hard to justify increasing non-deductible business expenses that do not provide additional benefit to employees.
- At this point mostly compliance focused. Evaluation of plans starting.
- Reducing benefit richness
 - Recruitment and retention issues
 - At some point employees better off in exchanges
 - Cadillac tax avoiding plans
 - More migration to HDHPs
 - Likely that only one benefit option will be offered if richer packages
 - Lowest common denominator with stand-alone add on
- Private Exchanges

Cadillac Tax/ Employer Response

- Doubling Down on Wellness
- Value Based Purchasing/ Population Health Management
 - In its infancy for employers.
 - Most programs only include provider incentives or specific conditions
 - Takes time to bend the cost curve
 - Need market share to negotiate
- Provider Innovation
 - Looking to telehealth, on-site clinics, and other non-traditional settings.

Is there light at the end of the tunnel or a train?

Wellness/ Background

- Worksite wellness programs increasingly common
- Sixty-three percent of employers offering health benefits offer at least one wellness program
- Despite this, employee participation remains limited
- A quarter of large employers offer incentives for participation in wellness programs
- Nevertheless, many employers report a reduction in health care cost trend because of wellness programs' effects

Wellness/

EEOC Litigation

- *EEOC v. Orion Energy Systems, Inc.*
 - If participation is declined, employees must cover 100 percent of the premiums—plus a \$50 monthly penalty.
 - Termination of employment allegedly followed employee opting-out.

- *EEOC v. Flambeau, Inc.*
 - If participation is declined, employee’s coverage is cancelled.
 - Employee provided opportunity to participate in the plan as a COBRA participant, paying 100 percent of the premiums.

- *EEOC v. Honeywell International, Inc.*
 - \$500 surcharge paid incrementally per pay period
 - \$1,000 premium increase for each enrollee who is a tobacco user,
 - Withholding of an HSA contribution ranging from \$250 to \$1,500
 - Client Alert — [Mainstream Wellness Program Challenged in EEOC v. Honeywell](#) (November 2014)

Wellness/ Background

- Generally, group health plans are prohibited from charging similarly situated individuals different premiums or contributions or imposing different deductible, copayment or other cost sharing requirements based on a health factor. However, there is an exception that allows plans to offer wellness programs.
 - Section 2705 codifies previously enacted HIPAA nondiscrimination regulations
 - In May 2013, regulations implementing this section were promulgated
- Increases amount of incentive a plan may offer a participant for participation from 20 to 30 percent of the cost of coverage (50 percent for tobacco cessation)
 - Recent EEOC proposal could limit this amount
- Further defines the categories of wellness programs
 - Participatory or Health Contingent
 - Activity based and Outcome based

Wellness/ Participatory and HC

- Participatory:
 - Available to all “similarly situated individuals”
 - Does not provide a reward, or
 - Does not include any condition for obtaining a reward that is based on an individual satisfying a standard that is related to a health factor
 - Example: Participatory Wellness Program may include a program that reimburses for all or a part of the cost of a gym membership

- Health Contingent
 - An individual satisfy a standard related to a health factor to obtain a reward, or
 - Require an individual to do more than a “similarly situated individual” based on a health factor in order to obtain the same reward

Wellness/ Health Contingent

- Rules for compliant health contingent wellness programs
 - Frequency of opportunity to qualify
 - Size of reward
 - Reasonable design
 - Uniform availability and reasonable alternative standards
 - Notice of other means of qualifying for the reward

Wellness/ Health Contingent

- Frequency of Opportunity to Qualify
 - Individuals eligible for the program opportunity to qualify for the reward at least once per year
- Size of the Reward
 - Total reward offered to an individual cannot exceed 30 percent of the total cost of employee-only coverage under the plan
 - If dependents are eligible for a reward, the reward cannot exceed 30 percent of the total cost of coverage in which the employee and any dependents are enrolled
 - A reward of 50 percent of the total cost of coverage is permitted for programs designed to prevent or reduce tobacco use

Wellness/ Health Contingent

- Reasonable Design
 - Reasonably designed to promote health or prevent disease, not overly burdensome, not a subterfuge for discrimination based on a health factor, and not be highly suspect in the method chosen to promote health or prevent disease
 - Preserves plan's ability to conduct screenings and employ measurement techniques in order to target wellness programs effectively
 - Wellness programs need not be accredited or based on particular evidence-based clinical standards, but this is encouraged
 - Potential area of future rulemaking
 - Programs may be limited to a targeted group of individuals with adverse health factors

Wellness/ Health Contingent

- Uniform Availability and Reasonable Alternative Standards
 - Any reward must be available to all “similarly situated individuals”
 - Participants who are not able to satisfy the initial standard must be able to earn the full reward by satisfying a “reasonable alternative standard”
 - Plan or issuer does not have to develop reasonable alternative standards before they are requested, but must provide them once they are
 - Plan or issuer can also always choose to waive a standard and still give the reward
 - If a reasonable alternative standard is health contingent, it must itself meet the five requirements for health contingent wellness programs, including the opportunity to earn the reward by satisfying a second reasonable alternative standard
- Rules differ for activity-only and outcome-based programs

Wellness/ Health Contingent

- Notice of Other Means of Qualifying for the Reward
 - Requires plans to disclose the availability of other means of qualifying for the reward or the possibility of waiver of the otherwise applicable standard in all plans
 - Must also include contact information to learn about reasonable alternative standard and statement that recommendations from personal physicians will be accommodated
 - Outcome-based programs must include this information when they inform someone that they have missed an initial standard

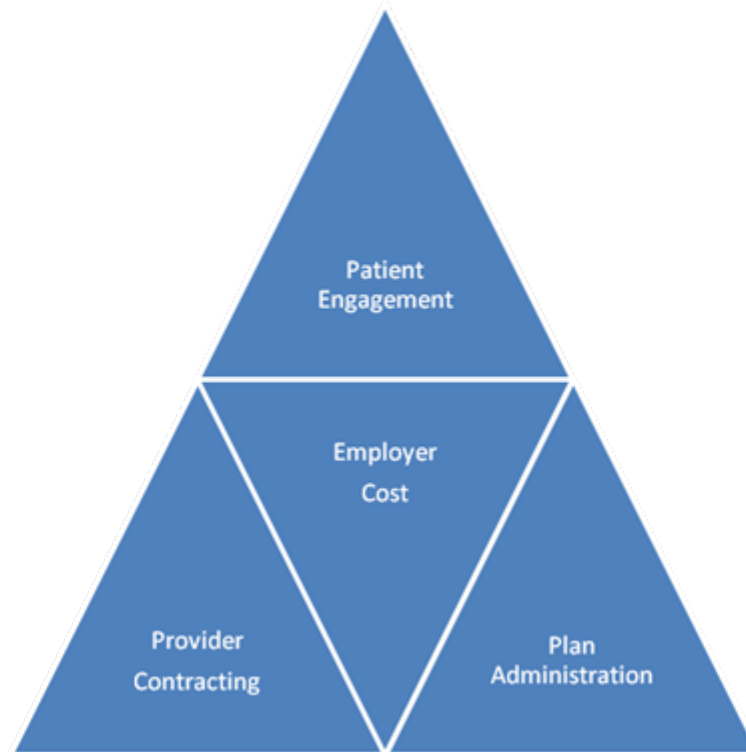
We Need Innovation/ Wellness Could Provide the Pathway

- Employers have not been sophisticated purchasers of health care
 - The clock is ticking on the employer-sponsored system
 - Benefit buy downs buy time but don't solve problem
- The Cadillac Tax is the focusing event
 - Cadillac Tax forces employers to become more sophisticated
 - Only real way to bend cost curve is change the way you pay and make populations healthier
- At the basic level three components are needed to implement population health, value based purchasing, accountable care:
 - Patient Engagement
 - Provider Willingness
 - Plan Design and Administration

We Need Innovation/ Wellness Could Provide the Pathway

- Patient Engagement:
 - There is no definition of wellness it just needs to be reasonably designed to promote health and prevent disease
 - Wellness incentives can be used to encourage employees to take advantage of alternative models and adhere to care paths
- Provider Adherence
 - If employers can offer market share and adherence to alternative models providers are receptive
 - Issue with geographically diverse employee populations, but standardization is on its way
- Plan Design/ Admin
 - Innovative and geographically repeatable models are here
 - Direct contracting possible

Wellness/ What is Possible



Questions



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