GCAHU – MEWAs vs. Level Funded Plans

David Whaley
Thompson Hine LLP
513.352.6681
David.Whaley@ThompsonHine.com

CE Class Outline with Time Component

Background

ACA – Community Group Rating Rules *(2 minutes)*

- Requires fully insured policies written for "small" employers (less than 50 FTEs) to be "community group rated"
- Encourages "small" employers to find "self-insured" solutions

Initial Response *(2 minutes)*

- Self-insured plans for Employers with low-attachment stop-loss coverage
  - Self-Insured – means that the risk of loss – that utilization is high – rests with the employer sponsoring the plan, not with an insurer
    - Risks: unpredictable claims experience; laser upon bad claims experience

Options

Level-Funded Plan *(5 minutes)*

- Predictable claims experience
- Access to strong network from Administrative Services Only Agreement with providers

Multiple Employer Welfare Arrangements a.k.a MEWAs (5 minutes)

- Trust with unrelated employers participating in a single plan
- Group purchasing power for ASO Agreement and stop-loss coverage

Level-Funded Plans *(15 minutes)*

Employers create a self-insured plan with relatively low stop-loss coverage

- Low Attachment on Stop-Loss Policy – Shifts that risk to insurer

Employers fund a uniform amount monthly to the insurer for funding the plan

The "excess" of funding is held with the insurance company to pay later incurred claims

- Negative claims experience can create future stop-loss issues including increasing premiums and "laser"
  - "Lasers" are exclusions from coverage for specific individuals claims; leaving the employer fully liable for the claim

If the "funding in" is greater than the claims at the end of the year; a portion of that is paid back to the employer and a portion is kept by the insurance company as an "administrative fee"

- Additional percentage of amounts "paid in" are held to fund run-out claims, making sure that the employer is not liable for claims that arise after the settlement period
    - Since the fee paid if variable based upon the claims experience of the employer's plan, there is a potential argument that the plan is not "self-insured" but instead a "fully-insured policy"
    - RISK - This could result in the plan being subject to the community group rating rules of the Affordable Care Act
        - Risk to insurer, not to the employer

MEWAs ***(15 minutes)***

Self-insured plan run through a "group purchasing" philosophy

MEWAs require approval

- Risk to the unrelated employers of insufficient assets to pay their claims; was initially seen as an undercapitalized insurance company
    - Must be approved by the State Department of Insurance

Unrelated employers all join together to have a similar platform via a contribution to a trust

- The Trust purchases stop-loss coverage for all covered members in the plan
    - MEWAs (cont.)

The rates paid for the benefits within the plan are based upon the utilization of the employer's employees within the stop-loss

- Protects against "predatory" increases in pricing of the stop-loss coverage and also lasers

"Run-out" claims for separating employers are unaddressed and create a risk that an employer with large claims either goes out of business or lack the funds to pay for claims. It is unclear how those are accounted for by the Trust

Benefits vs. Traditional Self-Insured Plans ***(10 minutes)***

Level payments into the program

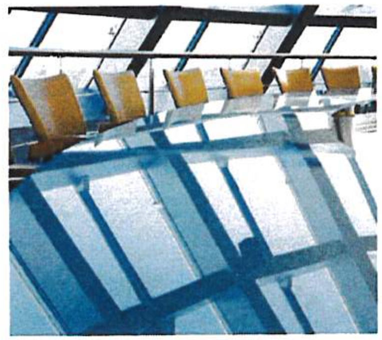
- Reduces unexpected costs

Ease of movement into fully insured marketplace

- Funding run-out unnecessary in shifting back into fully insured marketplace

Questions & Answers ***(5 minutes)***

THOMPSON HINE



GCAHU – MEWAs vs. Level Funded Plans

David Whaley
Thompson Hine LLP
513.352.6681
David.Whaley@ThompsonHine.com

Background

- ACA – Community Group Rating Rules
  - Requires fully insured policies written for "small" employers (less than 50 FTEs) to be "community group rated"
  - Encourages "small" employers to find "self-insured" solutions
- Initial Response
  - Self-insured plans for Employers with low-attachment stop-loss coverage
    - Self-Insured – means that the risk of loss – that utilization is high – rests with the employer sponsoring the plan, not with an insurer
      - Risks: unpredictable claims experience; laser upon bad claims experience

Options

- Level-Funded Plan
  - Predictable claims experience
  - Access to strong network from Administrative Services Only Agreement with providers
- Multiple Employer Welfare Arrangements (MEWAs)
  - Trust with unrelated employers participating in a single plan
  - Group purchasing power for ASO Agreement and stop-loss coverage

Level-Funded Plan

- Employers create a self-insured plan with relatively low stop-loss coverage
  - Low Attachment on Stop-Loss Policy – Shifts that risk to insurer
- Employers fund a uniform amount monthly to the insurer for funding the plan
  - The "excess" of funding is held with the insurance company to pay later incurred claims
    - Negative claims experience can create future stop-loss issues including increasing premiums and "laser"
      - "Lasers" are exclusions from coverage for specific individuals claims; leaving the employer fully liable for the claim

Level-Funded Plan (cont.)

- If the "funding in" is greater than the claims at the end of the year; a portion of that is paid back to the employer and a portion is kept by the insurance company as an "administrative fee"
  - Additional percentage of amounts "paid in" are held to fund run-out claims, making sure that the employer is not liable for claims that arise after the settlement period
    - Since the fee paid if variable based upon the claims experience of the employer's plan, there is a potential argument that the plan is not "self-insured" but instead a "fully-insured policy"
    - RISK - This could result in the plan being subject to the community group rating rules of the Affordable Care Act
      - Risk to insurer, not to the employer

MEWAs

- Self-insured plan run through a "group purchasing" philosophy
- MEWAs require approval
  - Risk to the unrelated employers of insufficient assets to pay their claims; was initially seen as an undercapitalized insurance company
    - Must be approved by the State Department of Insurance
- Unrelated employers all join together to have a similar platform via a contribution to a trust
  - The Trust purchases stop-loss coverage for all covered members in the plan

MEWAs (cont.)

- The rates paid for the benefits within the plan are based upon the utilization of the employer's employees within the stop-loss
  - Protects against "predatory" increases in pricing of the stop-loss coverage and also lasers
- "Run-out" claims for separating employers are unaddressed and create a risk that an employer with large claims either goes out of business or lack the funds to pay for claims. It is unclear how those are accounted for by the Trust

Benefits vs. Traditional Self-Insured Plans

- Level payments into the program
  - Reduces unexpected costs
- Ease of movement into fully insured marketplace
  - Funding run-out unnecessary in shifting back into fully insured marketplace