Is there Strength in Numbers? Will AHPs Work?

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Is there Strength in Numbers? Will AHPs Work?

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Multiple Employer Purchasing Pools

Have the goals been realized?

Multiple Employer Purchasing Pools

- Multiple employer trusts (METs)
- Multiple employer welfare arrangements (MEWAs)
- Health insurance purchasing cooperatives (HIPCs)
- Association health plans (AHPs)

Goals

- Why ongoing push for METs, MEWAs, AHPs, HIPCs?
  - Reduce costs
    - Lower provider costs
    - Lower administrative costs
  - Stabilize costs through pooling
  - Increase choice of health plans being offered
  - Guarantee issue and portability (prior to HIPAA)

METs and MEWAs

- Employee Retirement Income Security Act of 1974 (ERISA)
  - Appeared to include METs and MEWAs, but not clear
  - Many METs and MEWAs marketed in 1970s and early 1980s
  - They claimed to be exempt from state oversight

METs and MEWAs

- Results
  - Many METs and MEWAs became insolvent
  - With lack of state oversight, little state or federal government could do to help those insured by insolvent METS and MEWAs
  - 1982: House Subcommittee on Labor-Management Relations held hearing on severe problems caused by MET insolvencies

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METs and MEWAs

- 1982 hearing findings:
  - A main cause of failures: METs’ and MEWAs’ claims to be exempt from state regulation as AHPs
  - These MEWAs would probably qualify as AHPs under proposed legislation
  - Uncertainty about oversight responsibility resulted in courts deciding if ERISA applied
  - Uncertainty resulted in no effective oversight
  - Subscribers left with millions of dollars of unpaid claims

METs and MEWAs

- Hearing made it clear that only way to stop fraud and abuse was to allow states to regulate MEWAs and METs, including AHPs
- 1983: Congress amended ERISA (Erlenborn-Burton amendments) to give state insurance regulators authority to oversee MEWAs, including AHPs

METs and MEWAs

- Erlenborn-Burton amendments were still unclear to some
- Many MEWAs, including AHPs, still claimed exemption from state oversight, due to ERISA
- 1990: Senate Permanent Subcommittee on Investigations held hearings on MEWAs

METs and MEWAs

- 1990 testimony
  - Little had changed since early 1980s
  - Ambiguity and confusion over laws resulted in absence of oversight
  - State authorities forced to pursue litigation to determine plans' status re ERISA eligibility
  - In interim, mismanagement, insolvency and fraud continued
  - By time MEWAs status determined, no assets left

METs and MEWAs

– NAIC officials testified as well as insurance commissioners from 10 states
– All confirmed severity of fraud and abuse among MEWAs
– All reported MEWAs routinely used ERISA preemption provision and complexity of Erlenborn-Burton amendments as shields against state oversight
– All reported that dual regulation resulted in hardships to consumers

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METs and MEWAs

- California-based MEWA that enrolled thousands in multiple states
  - Sponsored by a “bona fide trade association”
  - Claimed ERISA exemption
  - Ultimately left $3.2 million in unpaid claims
- Christian Organization Medical Society
  - Targeted ministers, churches, church schools
  - Claimed ERISA exemption
  - Ultimately left $5.4 million in unpaid claims

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METs and MEWAs

- 1992 General Accounting Office report
  - Between January 1988 and June 1991, MEWAs left at least 398,000 participants and their beneficiaries with over $123 million in unpaid claims
  - More than 600 MEWAs failed to comply with state insurance laws

METs and MEWAs

- MEWAs still a concern, even with state oversight
  - 2001: Sunkist Growers Inc., a licensed MEWA in California became insolvent
    - Covered 23,000 people
    - Now owes around $11 million for medical claims
  - 2002: New Jersey's Coalition of Automotive Retailers became insolvent
    - Covered 20,000 people
    - $15 million in unpaid medical claims

METs and MEWAs

- 2002: Indiana Construction Industry Trust became insolvent
  - Had operated since 1960s
  - Insured 790 employers representing 14 association groups and 22,000 employees and dependents
  - $20 million in unpaid claims
- 2003: Licensed Beverage Association in New Jersey became insolvent
  - 1,000 members
  - $2 million in unpaid claims

METs and MEWAs: Lessons

- Clear oversight responsibility is essential
- MEWAs, METs and AHPs not covered by guaranty funds
  - GF contributions one source of “savings”
  - Members left responsible for unpaid claims
- Also essential: solvency requirements that are vigorous, dynamic, allowing for growth
- Should not have dollar maximum on surplus requirements

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HIPCs

- Health insurance purchasing cooperatives
  - Different history than METS, MEWAs, and AHPs
  - Became popular with the advent of small employer insurance reforms in 1990s
  - Results definitely mixed
  - None resulted in insolvency
  - With exception of COSE, none have obtained a significant market share

HIPCs

- Successful HIPCs
  - Council of Smaller Enterprises (COSE) in Cleveland, Ohio
    - Enrollment of about 200,000 in Cleveland area
    - Not usually held as a prototype for other HIPCs because of its special circumstances
    - For most of its history, COSE has offered insurance from one carrier

HIPCs

- Successful HIPCs
  - PacAdvantage (formerly the Health Insurance Plan of California)
    - 147,000 members
    - Offers about a dozen different health plans
  - Connecticut Business & Industry Association (CBIA)
    - About 10,000 members enrolled
  - New York Business Group on Health
    - About 7,000 enrolled

HIPCs

- Unsuccessful HIPCs
  - Kentucky
  - Texas
  - Iowa
  - Florida
  - Colorado

Have the Goals Been Realized?

- Goal: Lower Costs
  - Because of failure to obtain significant market share, claim-cost savings have not been realized by HIPCs
  - Many large insurers and/or HMOs have more market share and offer greater discounts
  - Administrative expense savings have not been realized by HIPCs; have not been demonstrated to be realized by METs, MEWAs, or AHPs

Have the Goals Been Realized?

- Goal: Stabilize Costs Through Pooling
  - Critical mass of risks of all types must be achieved first
  - Forming a “pool” does not guarantee critical mass of all risk types
  - If pool rating rules are more liberal than non-pool rating rules, they will ultimately fail

Have the Goals Been Realized?

- Goal: Increase Choice of Health Plans
  - Degree varies by plan
  - HIPCs can offer increased choice and have introduced managed care to many small groups
- Goal: Guarantee Issue and Portability
  - HIPAA required guarantee issue and portability for small groups

Sources

- Elliot K.Wicks, Economic and Social Research Institute, "Health Insurance Purchasing Cooperative," The Commonwealth Fund, November 2002
- Mila Kofman, et. al, "MEWAs: The Threat of Plan Insolvency and Other Challenges," The Commonwealth Fund, March 2004
- Eleanor Hill and Anne Schott, "Association Health Plans: Preemption of State Oversight Would Place Consumers and Small Employers at Risk," May 2002

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AHPs

Market Segmentation Issues

Market Segmentation Issues

- Allowable rating differences
  - Charge higher rates for less healthy employees
  - Less healthy employees driven to private health insurance market
  - Ultimately, rates for AHPs vs. private market diverge

Market Segmentation Issues

- Lower solvency standards
  - Surplus requirements should be targeted to growth, size of AHP
  - Inadequate surplus will likely contribute to insolvency

Market Segmentation Issues

- Benefit differences
  - Exemption from state-mandated benefits may attract healthier groups
  - Similar to rating, benefit differences will cause pool rates to diverge

AHPs

Other Issues

Other Issues

- Unclear regulatory authority
  - Regulatory authority should be clear, otherwise enforcement may be absent
  - Negation of existing state health insurance laws

Other Issues

- Lack of negotiating leverage
  - Critical mass of AHPs is key
  - Difficult to create such mass for negotiating leverage

Other Issues

- Provider and claim payment laws
  - Any willing provider laws
  - Timely payment of claims
  - Privacy and patient protection
  - HIPAA applications

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Other Issues

- Lack of administrative expense savings
  - Difficult to see how such savings will be realized
  - Underwriting, enrollment, billing, distribution, customer support will still exist

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