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State of uncertainty

Companies can take steps to prepare for possible health-care changes, though reform legislation sits in limbo

By Randy Southerland
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The drive for health-care reform might remind many people of an old movie serial. At the end of each episode, the hero is left hanging from a cliff, while the bad guy makes off with the girl. It has also left virtually every business owner wondering — and perhaps dreading — what new requirements and costs Washington will impose if one of the competing bills finally passes.

One of those who would like to know what he faces is Dan Limerick, CEO and founder of **American Trade Products**, which makes Earth Plastic, a material made from recycled plastic that is 100 percent biodegradable.

Last year, Limerick saw his company's health insurance premiums for his 25 employees rise almost 30 percent. That follows other annual increases despite constant shopping of plans and brokers.

"The administration says the existing increases in

Preparing for health-care reform

- ▶ Keep informed on developments in legislation.
- ▶ Once they're passed, know when provisions take effect.
- ▶ Get a broker to help make your plan complaint.
- ▶ Consider switching to a Professional Employer Organization (PEO).

health insurance are unsustainable and I believe that to be true," Limerick said. "But the question all small-business owners and Americans are asking themselves is, if that is the case then what do we do? I think everyone has that on their plate now."

That uncertainty has paralyzed many companies.

"Everyone in the area of small-business owners and the medical providers and insurance industry is in a

wait-and-see pattern right now," said Brett Virgin, a principal at **Peachtree Benefit Group**.

That sentiment was echoed by Warren Kingsley, a partner with **Arnall Golden Gregory LLP**, who said he was advising his clients to avoid making substantial changes to their health insurance benefits until the legislative picture grows clearer.

While no one at this point can say what the final legislation will look like, there are actions that business owners can take now to prepare.

Whatever passes is likely to make significant changes in the way Americans are covered and the requirements placed on businesses to cover their workers. While big businesses are well prepared to provide coverage to workers, smaller businesses are likely to feel some pain.

"As is often the case with any new legislation requiring companies to adopt new practices, small businesses tend to feel the greatest amount of negative

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impact due to limited resources," said David Imbrogno, South region general manager for **ADP TotalSource**. "In general, they also tend to have less access to capital."

If an employer mandate is enacted, non-compliant employers may be fined. It could be very difficult for small-business owners to maintain day-to-day operations while trying to stay in compliance with many provisions currently included in the proposed bills.

If the company doesn't move quickly to provide coverage, it could face stiff fines. For those with no coverage at all, it will mean starting from scratch to find a suitable plan.

Some of the biggest changes may be felt by self-funded insurance plans.

"These bills will apply to self-funded plans more radically than they have ever been touched by the federal government since ERISA was enacted," Kingsley said.

For example, there will likely be no more lifetime caps on coverage. Mandated benefits will have to be included in the plans — even if they don't offer them now.

Employers will have to provide certain mandated types of benefits that they may not have to provide right now.

Under ERISA — the Employee Retirement Income Security Act — you can provide what you want.

If I want to say that I am not going to cover mental health benefits, I can do that. You are not going to be able to do that under health reform, Kingsley said.

"There are going to be prohibitions on [not covering] pre-existing conditions," said Bruce Parvarandeh, an attorney with



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Arnall Golden Gregory.

Reform is also likely to change flexible spending accounts. Plans that allow workers to pay deductible medical expenses with pre-taxed dollars may be capped. Instead of permitting \$5,000 — standard at many companies — it could be half that amount.

"That would be a significant pay reduction for the average worker in the sense that they would be able to do less pre-taxed spending," Kingsley said.

Also on the chopping block are high-end discriminatory health plans reserved for top executives. These "kitchen sink" plans "will be dead," he added.

While companies shouldn't be making

big changes just yet, there are certain steps they can take now if they don't want to be caught flat-footed.

The first of these is "find a good insurance broker and have him ready," Kingsley said.

In addition to finding a seasoned professional to help them through the process, each owner should be keeping close tabs on breaking developments.

"If it passes, some of the new rules will have quick effective dates," Kingsley said. "You are not going to be able to sleep for a year and say, 'Oh, I didn't know that.' You will be subject to fines."

For companies without coverage, now is probably not the time to put a plan in

place. In most cases, there's a good business reason why they chose to drop coverage in the past.

Instead they should monitor developments, but identify experts who can help in the selection process if and when needed.

For companies with plans, moving to a Professional Employer Organization (PEO) can help them navigate regulatory and tax changes, new compliance requirements, and assistance in avoiding the imposition of costly fines and penalties, according to Imbrogno.

Setting up a PEO arrangement creates a co-employer arrangement alongside the client and shares in some of the employment responsibilities and liabilities.

"The PEO is the plan sponsor of the benefit plan," he said. "It handles the annual negotiations with health carriers and all benefit administration and compliance issues, so a small-business owner can focus on what he or she does best: run the business."

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