



## Self-insurance as an ObamaCare Alternative



### The Issue

The Patient Protection and Affordable Care Act (ACA) requires most Americans to have health insurance by March 31, 2014, or else pay a penalty. Those not insured through an employer-sponsored health plan must obtain individual coverage, which must comply with a host of regulations and include certain essential health benefits (EHBs), whether they are sold on or off the Health Insurance Marketplaces (exchanges) created by the ACA. Carriers on the individual market must offer coverage without regard to health status or gender, and are restricted in their ability to vary rates based on age.

These regulations have driven up the cost of individual and small group coverage significantly, both in Texas and nationwide. Prior to the ACA, a 27-year-old man in Dallas, for example, could find catastrophic coverage for about \$69 a month. But now, the lowest-cost catastrophic coverage available in the Dallas area on the federal exchange is \$173 a month—a 150% increase.

Proponents of the ACA claim these higher costs are offset by subsidies, and while that is true for those with low incomes, people in their 20s and 30s who earn more than about 250% of the federal poverty limit (FPL)—about \$29,000 a year—are not eligible for subsidies and must pay the entire cost of the premium out-of-pocket.

This presents a problem for uninsured working young people and also for many small firms that employ fewer than 50 people and do not offer health insurance (the ACA's employer mandate requires firms with 50 or more employees to offer their workers affordable health insurance beginning in 2015 or 2016, depending on the size of the employer). Small companies tend to have younger employees, who will face significant premium costs if forced to purchase individual coverage on the exchanges.

### The Facts

- Those who fail to obtain ACA-compliant coverage must pay a fine. In 2014, the fine is \$95 or 1% of income per person. The fine increases to \$325 or 2% of income in 2015, and to \$695 or 2.5% of income in 2016.
- The ACA authorizes the Department of Health and Human Services (HHS) to regulate health insurance issuers, which it defines as, “an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance.” Therefore, if a state licenses an entity as a “health insurance issuer,” the federal government is generally obliged to recognize the entity as such.
- The Texas House passed HB 2732 in the 83rd legislative session but the bill failed to pass the Senate. The bill would have created a mechanism for individuals to self-insure as “dedicated personal insurers” by authorizing a savings-based approach to health insurance that satisfied the ACA's individual mandate.

### Recommendations

- The Legislature should pass an amended version of HB 2732 that requires a self-insurer to deposit funds equal to at least 8% of their adjusted gross income annually up to \$60,000, after which no further deposits are required. These funds would be used to pay medical bills, and self-insurers would be issued a certificate of authority (COA) by the Texas Department of Insurance (TDI), thereby fulfilling the ACA's individual mandate.

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- The state should establish a reinsurance program to encourage uninsured individuals to self-insure. The program would offer low-cost reinsurance to all those opting to self-insure, and could be funded with past and ongoing revenue previously dedicated to the Texas Health Insurance Pool (high-risk pool).
- For low-income individuals, the state could lower the 8% threshold for self-insurance on a sliding scale based on income and offer a partial state match to encourage the uninsured to participate.

### Resources

*The High Cost of ObamaCare Mandates in Texas' Individual Health Insurance Market* by John Davidson, Texas Public Policy Foundation (Oct. 2013).

"Understanding the Dedicated Personal Insurer Act," Self Insured Americans, Inc. (Nov. 2013).

42 USC 300gg-91.

