What Veterinary Medicine Practices Should Do About Health **Insurance**

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In the July 2010 "Legal Briefs" column, I wrote about the Patient Protection and Affordable Care Act (the federal health care reform law called PPACA) and its effect on health insurance. Much has happened since then. Employers need to know what they should do.

Perhaps the most controversial PPACA provision is the individual mandate, the requirement that everyone (with certain exceptions) have health insurance or pay a penalty. After conflicting decisions by the lower federal courts, the U.S. Supreme Court has agreed to hear an appeal in March 2012. Most experts believe that the Supreme Court will (a) uphold the individual mandate or (b) decide that the penalty is a tax whose constitutionality cannot be challenged or (c) strike down the individual mandate but uphold the other parts of PPACA. Under any of those scenarios, most PPACA provisions will continue to apply, and that is the assumption on which I am proceeding.

A centerpiece of PPACA, besides the individual mandate, is the requirement that each state establish an "exchange" to facilitate the purchase of health insurance by individuals and small businesses beginning in 2014. In 2006, Massachusetts created such an exchange, called the "Health Connector."

In Wisconsin, upon entering office in January 2011. Governor Walker issued an executive order to create the "Office of Free Market Health Care" and "develop a plan for the design and implementation of a Wisconsin health benefit exchange that utilizes a free-market, consumer driven approach." In February 2011, Wisconsin received a federal "Early Innovator Grant" of \$37.7 million to build its exchange.

In January 2012, Governor Walker repealed his earlier order and stated: "I have directed the Department of Health Services to notify the federal government that we will discontinue any development on a health exchange and that Wisconsin will turn down funding from the Early Innovator Grant program."

If PPACA is upheld, but Wisconsin does not create its own exchange, then the federal government will create one for Wisconsin. Therefore, veterinary medicine practices in Wisconsin should assume that, beginning in 2014, an exchange will exist to facilitate the purchase of health insurance.

PPACA does not require small employers to purchase health insurance for their employees. Nevertheless, most employees prefer to get their health insurance through their employers, partly because the tax code favors employer-provided insurance.

Because group health insurance plans are subject to many rules that increase premium costs and that do not apply to individual policies, some veterinary medicine practices may be tempted to drop their group health insurance plans and simply help employees purchase individual policies (or get coverage through BadgerCare or HIRSP, the state Health Insurance Risk-Sharing Plan). A barrier to such an approach is Wis. Stat. section 632.745(9), which requires an insurer to treat, as group health insurance, individual policies covering employees when the insurer sells 3 or more such policies to or through the employer.

I recommend that veterinary medicine practices work closely with their insurance brokers and agents and make year-to-year decisions regarding the provision and design of their group health insurance plans. In other words, until further notice, you should continue what you have been doing.

