



# Individual Health Insurance

Sometimes a Bane, Sometimes a Benefit, and Increasingly the Only Option

By Anna Rapa

With the current economic crisis and unemployment on the rise, individual health insurance plans are the only option for many newly unemployed or self-employed attorneys and clients. But whether the health insurance is for yourself or your client, watch out. Individual plan providers are constantly revising policies, individual premium rates are volatile, and many attorneys and clients are unable to wade through the jargon to find the best policy for the best value.<sup>1</sup> Even more are unaware of the possibilities and the pitfalls associated with individual insurance policies.<sup>2</sup>

## Individual Health Insurance Policies

According to Mike Slaughter, director of association health plans at Paul Goebel Group Insurance, perhaps the best thing a self-employed person can do to improve health insurance options is to hire a full-time employee and offer health insurance as a benefit of employment.<sup>3</sup> Once a company has more than one employee, the possibilities for health insurance plans and premiums are nearly infinite. Unfortunately, in these economic times, hiring an additional employee and offering health benefits is not always possible. However, there are several options for the unemployed or self-employed in the individual health insurance market.

## Fast Facts

Blue Cross and Blue Shield of Michigan is required to offer reasonable insurance at reasonable rates to virtually all Michigan residents.

If an individual has a high-deductible insurance plan, health savings accounts can be filled with pre-tax dollars to pay for health care copays, deductibles, and prescriptions.

Continuation coverage under COBRA may guarantee coverage of preexisting conditions that would not be covered under a new policy.

For example, many for-profit insurance companies offer individual health insurance policies. These policies may range from 100 percent coverage with a \$10 per-visit copay to the traditional 80/20 percent coverage with a higher per-visit copay. Companies may also offer high-deductible health insurance policies, called major medical policies. These policies have a high family deductible, sometimes as much as \$6,000 per year. A family must spend the deductible amount toward health care each year before the insurer will cover anything. Once the deductible is met, the insurer will pay between 80 and 100 percent of covered expenses, depending on the policy.<sup>4</sup>

Unfortunately, these individual policies often have inherent problems. For example, many individual policies offer only bare bones coverage, so that hospital or emergency care, mental health, maternity, substance abuse treatment, and prescription drugs may not be covered.<sup>5</sup> Even when these things are covered, the policies often have such low yearly or lifetime caps on coverage that the coverage is exhausted after one major illness.<sup>6</sup> Most states also allow insurers to pick and choose what to cover, to deny coverage to certain people, or attach riders to a policy so that a specific preexisting condition is not covered.<sup>7</sup> In addition, choosing a major medical policy with a high deductible can result in

delayed or foregone care for medical problems that may lead to an increase in sickness or death.<sup>8</sup>

Some of these concerns were addressed under the Michigan Nonprofit Health Care Corporation Act of 1980.<sup>9</sup> Under this act, Blue Cross and Blue Shield of Michigan was formed as a non-profit health insurance provider to assure that every resident of Michigan has access to and reasonable cost and quality of health care.<sup>10</sup> According to the act, rates for policies must be uniform among subscribers to the extent practicable.<sup>11</sup> Blue Cross must also offer insurance to every Michigan resident except those who have committed fraud against the insurance agency or stopped paying their premiums.<sup>12</sup> Finally, there are explicit limitations on Blue Cross's ability to exclude preexisting conditions from coverage. Preexisting condition exclusions are only permitted for injuries that occurred six months before a policy is issued, and Blue Cross may only wait six months after coverage begins to cover all preexisting conditions.<sup>13</sup> In addition, Blue Cross may not exclude preexisting conditions for those individuals who have been insured under a group plan for the last 18 months, are no longer eligible for a group plan, and have exhausted COBRA<sup>14</sup> benefits, if eligible. Blue Cross has several different policies for different types of individuals, broken down into plans for families, young adults, and older adults. These policies currently have baseline costs between \$47.14 and \$138.54.<sup>15</sup>

In addition, the concern with major medical policies related to the high deductible amount has been met by the creation of health savings accounts (HSAs) and favorable tax treatment of those accounts by the Internal Revenue Service. According to independent insurance agent Tom Curtis of DeRidder and Associates Insurance, the use of HSAs by individuals with major medical policies is on the rise.<sup>16</sup> The HSA can be very helpful in meeting the high deductible amount if an individual is committed to saving each month. In 2009, an individual can deposit up to \$3,000 and a family can deposit up to \$5,590 of pre-tax dollars into the HSA.<sup>17</sup> Those dollars are never taxed to the individual as long as they are spent on qualified medical expenses. After only a few months, there is usually enough to cover a routine doctor's visit or a monthly prescription. An HSA also encourages an individual to find quality health care providers with reasonable fees, because the individual sees the money coming out of his or her HSA. Finally, an HSA encourages saving for medical expenses more than a traditional medical flex plan does because money put into an HSA stays there until it is spent on medical expenses. Unlike using a flex plan, an individual using an HSA does not lose the tax benefit if the money is not spent in that tax year.<sup>18</sup>

### Special Considerations for the Recently Unemployed

Although individual health insurance plans are available to the recently unemployed, sometimes COBRA<sup>19</sup> is a better option. COBRA is a federal law that allows an individual to continue under a former employer's group insurance plan for up to 18 months after employment is terminated.<sup>20</sup> When the employment terminates, the employee pays the entire premium amount, rather than the portion he or she paid while employed.

**Not every insurance agent is equal. It is important for an individual to seek out an agent with whom he or she can develop a rapport.**

COBRA may be a better option than an individual insurance plan or a temporary insurance plan because most insurance policies refuse to immediately provide benefits to treat preexisting health conditions.<sup>21</sup> Maintaining insurance coverage under COBRA rather than having a separate individual policy between jobs may provide the best coverage, even if COBRA premiums are notoriously expensive.<sup>22</sup>

In addition, some attorneys or clients may qualify for special assistance with COBRA premiums. As part of the American Recovery and Reinvestment Act of 2009, an individual who is involuntarily terminated from employment between September 1, 2008 and December 1, 2009 may elect COBRA continuation of the employer's group insurance plan and may pay only 35 percent of the normal COBRA premium for nine months.<sup>23</sup> The remaining 65 percent is paid by the former employer, who can use the amount subsidized as a credit toward its payroll tax payments.<sup>24</sup> Individuals who use the COBRA subsidy do not have to report it as income on their tax forms.<sup>25</sup> In addition, the COBRA subsidy is not counted as income in determining the eligibility for other government assistance programs.<sup>26</sup>

It is important to note that the COBRA subsidy benefit is not available to "high-income" individuals—those with an income higher than \$125,000 for an individual or \$250,000 for a joint return.<sup>27</sup> If an individual takes the subsidy and exceeds the income limits for that taxable year, then the subsidy is recaptured as a tax on the individual's tax return.<sup>28</sup>

Another option for the recently unemployed is short-term insurance. These insurance policies are written for a maximum of six months, and in Michigan, an individual is limited to purchasing one short-term policy in a year.<sup>29</sup> The benefit is that an individual has insurance coverage for anything that happens during the insurance period. The drawback is that everything that happens in that short-term insurance period becomes a preexisting condition for future insurance policies.

### How to Find and Purchase the Best Insurance

Although solo practitioners and the self-employed tend to be independent and motivated to learn and discover things, when it comes to insurance, it is usually best to seek out an insurance agent. Agents have inside information about insurance companies and insurance policies. Agents also have access to different people within an insurance company than those an individual will reach with questions or problems.<sup>30</sup> When there are problems or questions related to a policy, an agent can sometimes make more headway than the insured individual, even if the insured is an attorney.

But not every insurance agent is equal. It is important for an individual to seek out an agent with whom he or she can develop

a rapport, who will know his or her family situation, health background, and individual needs. There is also a difference between agents who work for specific insurers, called captured agents, and independent agents. An independent agent will have access to many different companies, while a captured agent sells just one company's insurance.

After an individual finds an agent, the most important question is about the policies the agent recommends. Mike Slaughter recommends asking the following questions about every policy being considered:

- **Does the insurer guarantee that it will issue a policy? If so, does the policy cover preexisting health problems?**
- **Are your doctors part of the health network?**
- **How broad is the health network? Statewide? Regional?**
- **Does the insurer have a strong history of providing coverage in Michigan?** Health insurers are sometimes permitted to pull out of a state entirely. If they do so, then the individual is back at ground zero in regards to finding health insurance, getting preexisting conditions covered, and finding the right policy.
- **Look at the details of the policy. Does it cover cancer, maternity, and other risks that some policies exclude? If the policy is cheap, what coverage is excluded to get a good rate?** This step may be the most difficult of all, particularly if an individual is searching for policies online. Often, the policy details are not readily available. But before buying a policy, be sure to review the policy and know what is covered and what is excluded.
- **Are prescription medications covered?**
- **Is there a health questionnaire to fill out?** If so, it is likely that the insurer will not guarantee that an individual will be offered insurance. Preexisting conditions, the types of medications currently used, and an individual's health history could cause him or her to be placed in a high-risk category and denied coverage.
- **How long are the rates guaranteed?**

Once these questions are answered about a certain policy, it is also a very good idea to get a second opinion from a second agent. Comparing several different quotes and policies allows an individual to ensure that he or she is getting the best insurance available.

Above all, an individual purchasing a policy should consider it to be the last policy he or she will ever buy.<sup>31</sup> If an individual exceeds the lifetime benefit or a catastrophic illness occurs and causes a preexisting condition, he or she may never have the opportunity to choose coverage again. ■



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## FOOTNOTES

1. Interview with Mike Slaughter, director of association health plans, Paul Goebel Group Insurance, in Grand Rapids, Michigan (March 10, 2009).
2. Interview with Tom Curtis, independent agent, DeRidder and Associates Insurance, Wyoming, Michigan (March 10, 2009).
3. Slaughter interview, n 1 *supra*.
4. Curtis interview, n 2 *supra*.
5. Health Underinsurance, Part I: Hearing Before the Senate Committee on Health, Education, Labor, and Pensions, 111th Congress (February 24, 2009) (statement of Gail Shearer, director, Consumers Union).
6. *Id.*
7. *Id.*
8. *Id.*
9. MCL 550.1101 *et seq.*
10. MCL 550.1102.
11. MCL 550.1611.
12. MCL 550.1401.
13. MCL 550.1402(b).
14. Consolidated Omnibus Budget Reconciliation Act of 1985, PL 99-272, 100 Stat 82.
15. See Blue Cross and Blue Shield of Michigan <[http://www.bcbsm.com/myblue/myblue\\_home.shtml](http://www.bcbsm.com/myblue/myblue_home.shtml)> (accessed April 24, 2009).
16. Curtis interview, n 2 *supra*.
17. Internal Revenue Service, Publication 969, *Health Savings Accounts and Other Tax-Favored Health Plans* (2008), available at <<http://www.irs.gov/pub/irs-pdf/p969.pdf>> (accessed April 24, 2009).
18. *Id.*
19. Consolidated Omnibus Budget Reconciliation Act of 1985, PL 99-272, 100 Stat 82.
20. Curtis interview, n 2 *supra*.
21. *Id.*
22. *Id.*
23. American Recovery and Reinvestment Act of 2009, PL 111-5, § 3001(a)(1)(A), 123 Stat 115.
24. *Id.* at § 3001(a)(12).
25. *Id.* at § 3001(a)(15).
26. *Id.* at § 3001(a)(6).
27. *Id.* at § 3001(a)(15).
28. *Id.* at § 3001(a)(15).
29. Curtis interview, n 2 *supra*.
30. *Id.*
31. Slaughter interview, n 1 *supra*.

