CHEIRON CLIENT ADVISORY

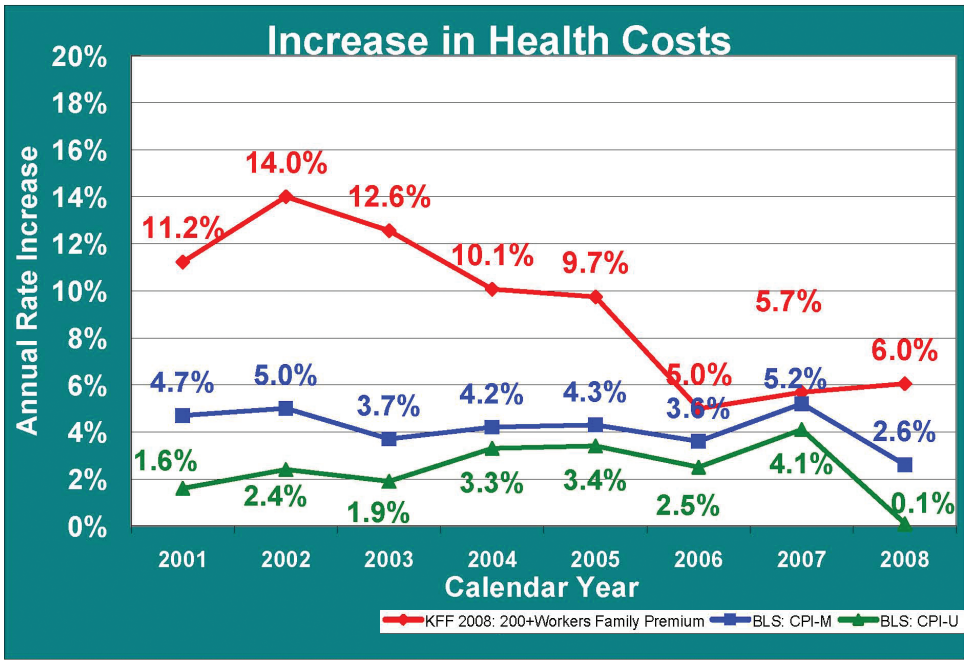
Winter 2009 Vol. 6 No. 2

2009 Health Care Benefit Review and Outlook

This Advisory reviews important developments in health care costs, plan design, legislation and regulation, as well as some notable medical innovations.

Health Care Cost Trends

Employer-sponsored family premium rates increased by 6% in 2008 for groups with 200+ workers, according to the Kaiser Family Foundation (KFF). However, that number is impacted by changes in the structure of employers' health benefit plan designs. Thus, the relatively low (by historic standards) increase may reflect widespread benefit reductions and/or increased cost-sharing with employees.



The unadjusted annualized CPI-U (i.e., the broad inflation measure for "all urban consumers") ending in December 2008 was 0.1%, compared to 2007's 4.1% inflation rate, and the last quarter of 2008 showed an unadjusted decline of 3.9% (a 12.7% seasonally adjusted annualized rate of decline). The medical care component of the CPI (CPI-M) was 2.6% in 2008, and 5.2% in 2007 for the respective years ending in December. However, those numbers may be misleadingly low from the perspective of health plan sponsors, because the CPI-M does not reflect cost-shifting to insured groups from the uninsured and government programs. In addition, the CPI-M does not reflect the leveraging impact of deductibles and out-of-pocket maximums. It is also moderated by its inclusion of a large number of medical services that are rarely covered by group health plans.

Cheiron consultants believe that many employer groups will see their health care costs increase for the next six to twelve months as employed participants increase their health care utilization in fear of future job layoffs and involuntarily terminated workers may get a second enrollment period along with the federal COBRA subsidy. However, we also believe that this period will be followed by lower medical inflation resulting from the economy having less money available for health care and an increased nurse supply. We anticipate an influx of nurses currently employed outside the nursing profession will return to nursing and help relieve the current nurse shortage.

Health Benefit Plan Design Trends

The percentage of surveyed "large" firms (defined as those with 200 or more employees) offering **retiree health benefits** in 2008 dropped to 31% last year, from 33% in 2007, according to the KFF. Among those large firms that offer retiree health benefits, 93% offer it to early (pre-Medicare eligible) retirees, and 75% offer health benefits to Medicare-eligible age retirees. These percentages are similar to those reported in 2007.

The same survey found that 13% of firms offering health benefits offered a **high deductible health plan** with a savings option in 2008. While not a significant difference from 2007, the number is nearly double the 7% that reported offering such a plan in 2006.

As in previous years, firms reported plans to increase the **amount employees have to pay** when they have insurance. Significantly more firms reported that they are "somewhat" or "very likely" to drop coverage (6%) or limit eligibility (13%) in the next year. This compares to 2007 results of 3% likely to drop coverage, and 5% likely to limit eligibility.

Regarding **wellness** plans, the KFF survey found that the majority (88%) of large companies offer some sort of wellness program. Of companies offering wellness benefits, 70% are provided through the health plan, not the company itself. In addition, 20% of firms with more than 200 employees provided some sort of wellness incentive in 2008. In contrast, only 6% of small firms offered any sort of wellness incentive last year, according to the survey.

Medical Innovations

The steady historic pace of advances in medical science continued in 2008. Some highlights include the following:

1. Progress was made on several fronts with stem cells. Scientists successfully generated motor neurons from the stem cells of two women with **Lou Gehrig's disease (ALS)**, which could lead to better treatments, or eventually, a cure. Also, a specific gene that was identified as integral to brain development could lead to stem cell research to treat **Alzheimer's disease**. Finally, a woman received the first transplant of a trachea that was grown completely from her own stem cells.

2. A system was developed for the continuous monitoring of glucose levels for managing Type 1 and severe Type 2 **diabetes**.

3. A trial of the **cholesterol-lowering drug** Crestor was completed. The trial was so successful that it was cut short from five years to two years because the study authors decided it was unethical to withhold the drug from those taking a placebo.

4. Progress was made towards fighting **parasitic diseases** such as Guinea worm and towards developing a vaccine for **malaria**.

5. Important developments in genetic testing included new tests to determine how particular drug treatments may be for women with **breast cancer** and prenatal tests for **Down syndrome**.

6. Three cells – heart muscle cells, endothelial cells, and cardiovascular progenitor cells – were derived from human embryonic stem cells. This is a critical development in helping medical researchers learn how to rebuild **scarred or damaged hearts**.

7. A study of the impact of Scotland's comprehensive legislation **banning smoking** in all enclosed places showed a **17%** reduction in hospital admissions for **acute coronary syndrome**.

Access to Affordable Health Care

The uninsured nonelderly population declined in 2007 from 46.5 million to 45 million, according to the Employee Benefit Research Institute (EBRI), released in September of 2008. Of the 45 million, about 26.8 million are working adults and 8 million are children.

The Political Environment

The long presidential primary election process put health care policy back in the national spotlight and on the front burner for the new Obama

administration. While making significant changes to the current system will be challenging, particularly given the faltering economy, the election of President Obama and Democratic gains in the House and Senate signaled a political shift.

For example, the State Children's Health Insurance Program (SCHIP), which would expand the number of children covered by an estimated four million (and was twice vetoed by President Bush), was signed into law by President Obama on February 4th, 2009. The mandates under that law will be funded primarily by raising taxes on cigarettes from 61 cents to one dollar a pack. The American Recovery and Reinvestment Act signed into law by President Obama on February 17, 2009 provides a ***65% subsidy for nine months of COBRA continuation premiums*** to involuntarily terminated workers and their families between September 1, 2008 and December 31, 2009. The subsidy can begin as early as March 1, 2009. Additionally, workers have 60 more days to elect COBRA.

At the state level, last year marked the first full year in which Massachusetts residents were mandated to have health insurance coverage. While the mandate has been successful in decreasing the number of uninsured in Massachusetts, the costs of the program have been significantly higher than expected. According to the Kaiser Commission on Medicaid and the Uninsured, Massachusetts' requested budget of $869 million for 2009 is nearly double the 2008 budget, and the state's legislature has been debating legislation intended to mitigate rising health care costs.

Legislation and Regulation

Additional health and medical-related legislation is expected on President Obama's watch. In addition, several important health benefit related laws and regulations occurred in the final year of the Bush administration:

1. **The Mental Health Parity and Addiction Equity Act of 2008:** This law requires group health plans with 50 or more members to provide the same level of benefits for mental health coverage as for regular medical services. For example, the number of visits or inpatient days cannot be capped for mental health related services, unless they are also capped for all other medical services. Mental health and substance abuse coverage is still not required, however. The Act is effective the first plan year beginning one year after the October 3, 2008 enactment date. For most plans, that will be January 1, 2010. The law makes an exception for collectively bargained plans that allows compliance to be required only after the current agreement terminates (but not earlier than January 1, 2009).

2. The **Genetic Information and Nondiscrimination Act (GINA) of 2008** prohibits insurers, employers and labor unions from "requesting or requiring" genetic testing of an individual or his family. The law is effective for the first plan year beginning after May 2009.

3. **Americans With Disabilities Act (ADA) Amendments** were adopted effective January 1, 2009 to counter several U.S. Supreme Court decisions that have narrowed the scope of the ADA.

4. Final rules were published for Group Health Plans and Health Insurers under the **Newborn and Mothers' Health Protection Act (NMHPS)** on October 20, 2008. The rules include a requirement for all plans to amend their Summary Plan Description or provide a Summary of Material Modifications within 60 days after the plan year beginning on or after January 1, 2009.

5. **Michelle's Law** prohibits group health plans that offer coverage to students from terminating coverage when a student takes a medical leave of absence.

6. **Cafeteria plan regulations** issued in August, 2007 became effective on January 1, 2009. Highlights of those regulations include the following:

   A formal **plan document** is required;

   Non-qualified benefits cannot be offered through a cafeteria plan. Examples include scholarships, employer-provided meals and lodging, educational assistance, fringe benefits, and long-term care insurance;

   The optional grace period of up to 2.5 months after the plan year end for incurring and submitting claims was not changed;

Paid Time Off – vacation days, sick days and personal days – may be included in a cafeteria plan;

A plan is permitted to allow payment of **private insurance and COBRA premiums;**

A simpler method of determining the taxable value of **group term life** insurance benefits exceeding $50,000; and

No deferrals of compensation are permitted, except a) two years of vision and dental premiums, b) advance payment of orthodontia and durable medical equipment, and c) the next month's salary reduction.

7. So called **"play-or-pay" legislation** enacted by state or local governments that requires large employers to provide their workers health coverage, or else pay an excise tax, is not preempted by ERISA (i.e., such laws do not violate federal law), according to an October, 2008 ruling by the U.S. Court of Appeals for the 9th Circuit. That ruling differs from those of other U.S. appeals courts that have shot down pay-or-play legislation in Maryland and Suffolk County, New York.

Cheiron is a full-service actuarial consulting firm assisting Taft-Hartley, public sector and corporate plan sponsors manage their benefit plans proactively to achieve strategic objectives and satisfy the interests of plan participants and beneficiaries. To discuss how Cheiron can help you meet your technical and strategic needs, please contact your Cheiron consultant, or request to speak to one by emailing your request to info@cheiron.us.

The issues presented in this Advisory do not constitute legal advice. Please consult with your own tax and legal counsel when evaluating their impact on your situation.