The Franklin Journal

Date: Friday, December 18, 2015
Location: FARMINGTON, ME
Circulation (DMA): 4,500 (74)
Type (Frequency): Newspaper (2WK)
Page: A6
Section: Main
Keyword: Joel White

IRS fines small businesses for lending helping hand

GUEST COLUMN

BY JOEL WHITE

Small businesses beware. The IRS has started picking on the little guy.

The tax man has started fining small firms large sums for doing nothing more than giving their employees money to help pay for health insurance.

The feds claim that the arrangement subverts the Affordable Care Act by allowing employers to avoid offering full-fledged insurance policies. But the fines are actually depriving small-business employees of thousands of dollars in compensation — and reducing the number of people with insurance.

These IRS fines have to go.

At issue are "Health Reimbursement Arrangements." Historically, small businesses that cannot afford to provide comprehensive health coverage have deposited money into HRAs to help their employees cover out-of-pocket medical expenses and insurance premiums. In 2014, employer contributions to about 10 million HRAs averaged $1,390 for individuals and $2,781 for families.

But the IRS has said that HRAs must meet Obamacare's many requirements on health plans, even though HRAs are accounts, not health plans. Because HRAs don't comply with the law's rules requiring health plans to cover things like preventive care at no cost, they're considered illegitimate.

The Affordable Care Act allows the IRS to fine employers that don't provide coverage that meets the law's standards up to $100 per day per employee. That can amount to $36,500 per employee over the course of a year.

Compare that fine to the one the ACA levies on larger businesses that flout the law's employer mandate by refusing to provide coverage at all. These firms have to fork over just $2,000 per employee.

That's one-eighteenth of the HRA fine.

By declaring war on HRAs, the IRS is picking the pockets of thousands of small-business employees — without doing anything to help them otherwise secure coverage.

Small businesses are responding by shuttering their HRAs altogether. Consider Lisa Cochran, the owner of two hair salons in Mississippi. Cochran used to contribute $50 a month towards her 19 employees' health plan premiums. But upon learning that she'd be charged $1,900 per day for providing this extra cash to her workers — a cost that would put her out of business — she nixed the benefit completely.

Or consider a worker making about $46,000 a year — who used to receive the average $1,390 HRA contribution from his employer. If he put that money toward the $4,368 premium for a mid-level silver plan through the individual health insurance exchange, he'd have to come up with just $2,978.

But without the cash from his HRA, he'll have to cover the entire premium himself. And he won't get any federal subsidies, as his income is just beyond the eligibility limits. All told, the IRS's assault on HRAs will spike his out-of-pocket costs by 47 percent.

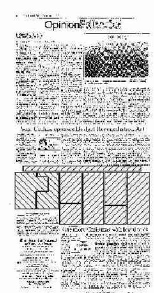
Fortunately, there's a movement afoot on Capitol Hill to stop this.

The Small Business Healthcare Relief Act, introduced by Congressmen Charles Boustany, R-La., and Mike Thompson, D-Calif., may start moving through the powerful Ways and Means Committee. The bill would protect small businesses from being fined for providing HRAs. The bill would also allow employees to use HRA funds to pay for health coverage in the individual market or qualified medical expenses like eyeglasses and annual physicals.

Small businesses across the country are being punished for trying to do the right thing for their employees — by helping them with the ever-rising cost of health care through an HRA.

Doing the right thing isn't often easy. But the IRS shouldn't make it impossible.

Joel White is the president of the Council for Affordable Health Coverage.



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