

The US workforce is changing. A new generation of workers is making entirely different demands on employers. The ability to attract and retain the best employees gets tougher every day. The cost of providing benefits continues to outpace inflation. Congress and government regulators are adding new layers of compliance complexity and state governments have begun to make their own determinations about the best way to cover the uninsured. New laws have brought new employer mandates and sometimes onerous requirements that would have seemed unthinkable just a few years ago.

To help you navigate this shifting landscape, the Willis Employee Benefits Practice is proud to introduce a new publication, *Executive Signal*. We'll keep you informed of new threats, opportunities and possible legislative activity that may affect your employee benefits programs. *Executive Signal* is a companion to other publications from the Willis Employee Benefits Practice that offer more traditional analysis and hands-on information. For those with high-level, strategic responsibility for benefits plans, we offer a high-level, strategic report on need-to-know developments in the world of employee benefits.

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### **Federal Healthcare Reform in 2007: Deal or No Deal?**

Although war and national security issues often appear to dominate the legislative agenda in Washington, they are not the only topics being debated. Other key issues – Medicare, executive compensation, minimum wage, paid family leave, mental health parity – are alive and kicking. Congress last year enacted several significant pieces of employee benefits-related legislation, including the Pension Protection Act of 2006 and the Tax Relief and Health Care Act.

One of the most potent problems on the current political/employee benefits scene, however, remains unsolved: health coverage for the uninsured. While the issue has been a political hot button for many years, in recent months interest has significantly increased. This may in part be due to actions at the state level. Governors in California, Pennsylvania and Illinois, just to name a few key states, have proposed sweeping healthcare reform legislation. The push to do something about delivering health coverage at the state level has been fueled by the increasing drain the uninsured are having on

limited state resources, the successful passage of similar legislation in Massachusetts and Vermont, and the lack of progress by the federal government in finding a solution.

## Federal Proposals

In addition to state legislative activity, there have been several national proposals set forth by various coalition groups, federal legislators and 2008 presidential candidates. President Bush is also pushing a new administration proposal. Many ideas are similar to earlier initiatives put forward in recent years, ranging from building on the current healthcare coverage system to completely overhauling it. The Senate Finance Committee is also holding a series of hearings titled *Moving Toward Universal Coverage*. The purpose of these sessions is to discuss making changes to the current US healthcare system. In addition, both the House and the Senate have already introduced bipartisan bills that award federal grants to states to aid them in enacting healthcare reforms that would reduce the number of uninsured.



President Bush discussed his proposal during his most recent State of the Union Address. It centers on tax breaks (both federal and payroll taxes) for all individuals with health coverage. Individuals would receive a standard deduction of \$7,500 for single coverage and \$15,000 for family coverage, regardless of the actual cost of coverage. Employers would continue to be able to take a full deduction for their health insurance expenses, including for any additional payroll tax expense resulting from the payment of the employer share of FICA tax on the cost of health insurance above the standard deduction limits. Employers

would no longer be permitted to pay for health insurance coverage on a pre-tax basis under Section 125 cafeteria plans. This proposal is projected to increase coverage by three to five million individuals, and it would benefit those who do not currently receive a tax break on the cost of their health coverage.

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Former Senator John Edwards (D – North Carolina) offers an approach that builds on the current system and shares features of proposals made by the governors of California and Pennsylvania as well as Massachusetts's *Health Care Reform Act*. Edwards's proposal would make individuals responsible for obtaining health insurance and would provide tax credits or subsidies to low- and some middle-income individuals to help pay the cost. Employers not providing health insurance coverage or contributing to the cost for coverage would be taxed (six percent in Edwards's campaign proposal). Those needing to purchase coverage would be given access to regional health markets, which are pooled arrangements run by the government that would offer a choice of different insurance plans. Insurance carriers could not deny coverage nor could they charge more to insure an unhealthy individual. Medicaid and the State Children's Health Insurance Program (SCHIP) would also be expanded.

Financing for the program would come from raising taxes on upper income individuals and reducing the tax gap (the difference between what the federal government is owed and what it collects). With the 2008 elections quickly approaching, other presidential hopefuls are busy formulating their positions on this issue and will soon be adding their opinions to the political debate. At least two Republican candidates – former governors Mitt Romney of Massachusetts and Tommy Thompson of Wisconsin – are expected to use their extensive track records on the issue as campaign points.

While another pending proposal, the *Healthy Americans Act*, would also require everyone to have health insurance, individuals would purchase coverage directly from insurers rather than obtaining coverage through employers. Employers currently

providing coverage would initially be required to pay their workers the amount they had been spending on their health insurance, and eventually all employers would be making “Employer Shared Responsibility Payments” to help employees buy their own insurance.

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The health coverage that would be available is said to be similar to what members of Congress currently receive, and would feature special wellness and disease prevention incentives. One proposal would provide tax breaks for the coverage costs and subsidies for low-income individuals. The program would be financed through a new tax on employers.

## Prospects for Change

Healthcare reform and the uninsured have been debated for many years. Although there has been a significant increase in state legislative activity to tackle the problem and several proposals have been made on the national level, the final outcome remains uncertain. Some healthcare experts are concerned that with all the attention on health coverage access, presidential candidates and legislators may miss a more fundamental issue – healthcare cost. While millions do not have health insurance, a majority of voters do enjoy healthcare coverage, and numerous surveys emphasize that voters with health insurance are most concerned about curbing skyrocketing medical costs.

Following last November’s elections, Congressional control shifted to Democrats for the first time in 12 years. Democrats will be primarily responsible for setting forth the legislative agenda for the next two years. In light of the split between a Democratic Congress and a Republican administration, and the narrowness of the Democratic Senate majority (51-49), however, there has been much speculation over the prospects for new legislative

initiatives coming out of Washington. Many observers believe that, even though Democrats will not be able to move sweeping legislation, they may still aggressively introduce new employee benefits legislation.



Without bipartisan support, broad Congressional changes are unlikely. Moreover, without significant federal financial support, state efforts to enact broad reforms will be hindered by numerous obstacles – particularly in terms of financing. As a result, we believe the most active area for employee benefits-related legislation before the next election will be targeted health benefit mandates at the state level. Such legislation would have direct and indirect implications for employers. Obviously, state legislation directly affects employers that buy insured products subject to state mandates, but indirect effects may be just as important. History has shown that Congress often takes important legislative cues from activity initiated on the state level. Stay tuned.

# Key Contacts

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