



Podcast Transcript

Self-Funded Employer Health Plans are Changing: What to Watch

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Guests: Jennifer Mills, Susan Whittaker Hughes **Host:** Amy Kattman

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For questions and comments contact:



Jennifer Mills

Partner
Cleveland
T: +1.216.861.7864 | jmills@bakerlaw.com



Susan Whittaker Hughes

Partner
Cleveland
T: +1.216.861.7841 | [shughes@bakerlaw.com](mailto:s Hughes@bakerlaw.com)

Kattman: Our topic today focuses on the future of self-funded employer-sponsored health plans and what changes we can expect to see in the marketplace over the next decade. Listen in as our guests discuss the disruptors in the industry and ways employers, consumers and providers are adapting and taking control of costs, as well as improving outcomes. I'm Amy Kattman, and you're listening to BakerHosts.

On today's episode, we will be discussing the changes taking place in providing healthcare coverage to employees. Jenny Mills and Susan Hughes are partners in the Employee Benefits Group. They are co-leaders of BakerHostetler's Strategic Healthcare Initiatives team which is examining a full spectrum of solutions for containing costs and improving quality outcomes among these plans. We will also discuss why now is the right time to be examining your self-funded plan for opportunities to incorporate more of these innovative models.

Welcome to the show Susan and Jenny.

Hughes: Thanks so much Amy, we're really excited to be here.

Mills: Yes Amy, thanks so much.

Kattman: Jenny, I'd like to begin with you. Why is now such an important time for health plans, and what is making employers take a more proactive approach?

Mills: You know Amy, now is an important time for many reasons. First, there's just truly the cost of healthcare. Healthcare costs have trended up year after year for several years now, and it's really getting to a point where it's gonna become unsustainable for employers. And, this is important because right now in the United States employers are one of the largest stakeholders in financing our healthcare system.

Employer health plans pay for approximately half of the healthcare that's delivered in the United States, and in addition to that, on average about 8% of employee compensation that employers pay is spent on providing healthcare coverage to their employees. Despite all of this, employers have had little to no involvement in the actual delivery of the healthcare that they're financing. And in addition, they rarely receive any type of quality metrics regarding their investment in their employees' health. So, instead of being involved they're relying on sometimes layers of third-party vendors, and these vendors actually profit from providing the healthcare to their employees, and value the data and leverage of the data that they get from servicing the employers.

So, recently recognizing this, there's been a trend of proactive employers who are actually looking for new ways to deliver quality-driven healthcare while still controlling costs. And if you look back about 10 years ago to when the Affordable Care Act came into place, a lot of what employers are trying to do now is what that was driving.

Hughes: Yeah. Amy, I agree with what Jenny's saying. You know, 10 years ago when the Affordable Care Act passed, we really thought that that would drive organic change both in driving up quality and driving down costs. But that really just has not been the case. Now that legislation was so important, we have not seen those changes take place. So, employers have been engaging in other mechanisms to try to take control over their healthcare spend.

We have employers working on the financial side by implementing high-deductible health plans with HSA features so that employees are more aware of what they're spending on their healthcare and hopefully are shopping around for the best quality care at the best price. But that certainly hasn't resulted in the cost impact we were hoping for. We've also had employers looking at the quality side and the improvement of health conditions side through wellness programs. But those really have been fraught with issues about what they really are returning on employers' investments. So, we have the Affordable Care Act, we have these

other initiatives, but the changes just haven't taken place at a level that we had hoped.

And I think the other thing that makes this time so important is that we have a new administration coming into the White House. And, the Obama administration was very active, obviously, with the Affordable Care Act, was very active in this space. The Trump administration has taken a different approach, rolling back some of the reforms made under the ACA. And, what we're expecting with the Biden administration is probably a more proactive role akin to what happened under the Obama administration. So this is a time where policy is really going to intersect with the delivery of healthcare to all Americans, but especially those covered by employer-sponsored plans. And so, we're really tuned in to what's going to happen and what's possible. And Jenny and I really like to focus on for our clients, what's possible.

Kattman: That's great. Susan, what is keeping companies who sponsor healthcare plans from taking action and adopting new models?

Hughes: You know, I think a lot of it is habit. We've been running health plans, or employer-sponsored health plans, a certain way for a really long time. Employers who are so busy, especially those HR and benefits professionals that we interface with are so busy, have such an active annual calendar. And, they really don't have time to investigate new opportunities as much as I think they would like to. And so, it really is kind of inertia or momentum that just keeps on perpetuating their habit of engaging third-party vendors to administer plans, pharmacy benefit managers who administer pharmacy programs and to just kind of keep that cycle going. But for those employers who do have the time and energy to put into thinking about things in a new way, that's where Jenny and I come in to help them kind of think outside the box, think outside their habits.

The other thing I think is important, an important factor in why things haven't changed as quickly as we thought they could or might, is that there's just not a ton of awareness. Yes, there are consultants and vendors who are in employers' ears and talking about new ideas and innovations and all of that is really interesting. But it is a lot of noise, because there's a lot coming at people. And so, what we try to do with our clients is really to suss out what's doable, what would best serve the clients' needs, and get to the bottom of what's practical for any particular employer.

Mills: Yes. Amy, I have to agree with everything that Susan just said. I mean, it's habit, it's hard to step out of the box. A lot of the voices in the ears of HR professionals who have a year-round calendar as Susan said, is really set to the status quo. So it's hard to move forward and do innovative things that will provide better healthcare to employees and also might help employers control costs. At the same time, although employers are very busy, they still have to remember that they are a fiduciary and they have a fiduciary role with regard to their health plans. Because these health plans are also funded by participant contributions, and because of this there's also a duty to closely look at how they are providing healthcare and the costs involved. And this includes the role of third parties who

they're dealing with on a day-to-day basis and making sure that there's transparency and a true understanding of what is happening with regard to the health plan money. So, these things, although it is stepping out of the box, are things that employers need to look at and take proactive approaches due to.

Kattman: Susan, what are some of the risks associated with taking action and also some of the rewards?

Hughes: Well, let me start with the risks. So, Jenny and I don't really think about them as risks, although we are, as ERISA attorneys we're very risk-averse people. But, honestly in this space we think about it more as maybe hurdles or barriers to entry. This space, the delivery of healthcare through employer-sponsored plans, is a highly regulated area. We have ERISA, we have the Affordable Care Act, we have the Internal Revenue Code, we have HIPAA, we have _____, we have COBRA, we have all of these wonderful laws with very well-known acronyms. And they each on their own provide a layer of rules and regulations, and you put them all on top of each other and it is super complex. But that's where we thrive. So the hurdle of the regulatory framework is something that we love to sift through and to vet, and for any given strategy we love to figure out what might be triggered and how do we work within that framework.

We also, we have employers who are in all types of industries, and so a particular employer in a certain industry might think, well this strategy might not be good for our particular workforce population. And, yeah that might be true, but guess what, there's probably another strategy out there that will work for them. So, again, a hurdle might be maybe not being able to find a great option, but when we think it through, we usually can come up with an option that will best serve that particular client.

And then, we've kind of alluded to this throughout the podcast already, but just a commitment. A big hurdle is a commitment. A commitment of time, and energy, and vision, and engagement and being willing to truly understand what's going on with your health plan right now, so we can identify cost drivers, so that we can figure out a way to really address what bothers you the most about your health plan. And what we find in working with our clients is that their first priority is that their population is going to receive the best care possible. And another priority is to drive down costs. But, it's that first priority that really motivates the people that we work with and motivates us. So, that's a really cool position to be in and to work with people with their eye on that ball.

Kattman: Jenny, do you want to talk about the rewards?

Mills: Yeah. As Susan was saying, it takes a lot of commitment but really the rewards for that commitment are measurable. I mean, and when I say the rewards are measurable, I mean both figuratively and literally. Because you have employers who are able to provide better care for their employees, better outcomes so you have, you're looking at delivery pathways for your employees, and because of that, and you're steering them to certain providers, you are able to look at measurable outcomes for improvements with health. And, at the same time

you're looking at cost savings and you have that assurance of you know what's going on with your plans. So the rewards include this confidence, now I know, that you know what is going on, that you're also providing the best opportunities for quality care for your employees, and at the same time with this commitment and being involved, the employers are getting better metrics to see the cost and quality improvements for the healthcare that they're providing. But they also might see other metrics, like improved attendance from employees who have better health outcomes. So, the rewards truly are measurable. You're getting better quality, you're getting more controlled costs, and you also have improvements in your workforce in general. So, those are the rewards.

And as Susan has mentioned, there's a lot of ways that employers tend to, can approach entry into taking action. One area that we've worked with a lot of employers with has to do with direct contracting. And that is, when the employer directly contracts with a provider. It could be a key health system in their area, a health, a specialty provider or a pharmacy system nationwide. One way this could be done is, if there is a healthcare provider in your area and you want to create a narrowed network plan option in partnership with that provider that steers employees to a tier of providers that work directly with the employer plan to provide quality and cost-driven care. That's one approach. You could have broader direct contracting where you may, an employer, we've had an employer that sets up their own network of providers that they picked based on the standards of care that they provide and the types of care they provide. So there's a whole range of things that employers can do in this space, and Susan and I have worked with a variety of approaches that employers are using.

Hughes: Yeah, Jenny, let me throw out one or two more. We've done a lot of work in specialty carve-outs, where an employer will identify the major cost drivers in their plan and then identify providers, maybe through a narrow network structure that Jenny just described, of providers who address that condition or that driver. And, they'll carve that condition or that treatment out of the plan and have it focus, not out of the plan but out of the normal plan structure and have their plan participants go to these certain providers that have really great outcomes for that condition or that treatment. And so, we do that kind of specialty carve-out.

We do, we've done work on prenegotiated bundling. For example, maybe surgeries are a major cost driver in the plan. There are vendors out there who will assist employers in setting up a system by which an employee can shop a certain surgery amongst several different providers, and those providers will provide a bundled price arrangement for that surgery, bundled from the moment the person walks into, even before they walk in the hospital, maybe even pre-op care, to the point at which they leave the surgery center. And all that's prenegotiated into one price so the, both the employee and the plan know exactly what that surgery's gonna cost. So, and there's other variations but just to throw out a few, there's a solution for all types of problems within plans.

Kattman: These are all very good things to consider. So, as we're closing out today's episode, I'd like to look towards the future. Jenny, what do you expect to see over the next 10 years as it comes to health plans, and who's leading the way?

Mills: You know, the next 10 years are really gonna depend on what employers do. They have a large financial stake in this, and as we've already discussed, the trajectory of healthcare costs just keep rising year after year. And what Susan and I are seeing is a group of proactive employers who are getting more involved in the type of care that is provided to their employees, including really understanding the costs, the metrics, the value of data, and those are the ones who are leading the way. And as more and more employers follow this path, we think the next 10 years is going to be employers taking more of a role in the strategies. Strategies like the ones that we've been discussing here today. With that, I think there's also going to be employers seeing and using quality metrics and focusing more on those as they provide healthcare to their employees.

So over the next 10 years, I think the employers who are gonna be leading the way are those who are more involved with the healthcare that's provided to their employees, understanding that, and understanding the metrics in it. I mean, as we've discussed, they're one of the major stakeholders. They're financing half of the healthcare that's delivered to individuals in our country right now, and as they get more involved, I think they're gonna be the leaders.

Hughes: I agree. I agree with Jenny so much here because employers really are going to be the drivers of change in this space. And just, not to be, just to make sure that no one's under any illusions that you have to be all in or not in at all, there are, because of all the different strategies that are available you can tip your toe in the pool. It doesn't need to be a full dive in. The different strategies have different amounts of involvement, different amounts of financial commitment and different amounts of engagement or reliance on third parties. So, I think the takeaway here is that there's a solution available for pretty much any situation. It just takes some time to really think it through and work it through the regulatory framework.

Kattman: Thank you, Susan and Jenny.

Hughes: Oh, you're welcome. We love talking about this, so thank you for having us.

Mills: Yes Amy, thanks for having us. We really do enjoy talking about this subject.

Kattman: And it shows. If you have any questions for Susan or Jenny, their contact information is in the show notes. As always, thanks for listening to BakerHosts.

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