

BROKER PRICING LEVERAGE IN THE FULLY-INSURED GROUP HEALTH MARKET

INSURANCE AND RISK ADVISORY SERVICES



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Benefit brokers have long competed for employer-based group health insurance business in part by touting their ability to “get the best deal” for their clients. Brokers often point to their size (large or small), geographic location or an influential relationship with an insurance company to support their claim of being able to secure a better rate than a competitor.

As small and mid-size employers continue to assess the impact of the Patient Protection and Affordable Care Act (PPACA) on their bottom line, a common question that arises is “Can the selection of my benefit broker in a post-PPACA environment impact the rate that my company will be charged for our health benefit program?”¹

One of the objectives of the PPACA is to move the insured market for group health insurance toward more standardized coverages through mandated benefits and mandatory minimum loss ratio requirements. Whether intended or not, these changes have also significantly impacted the brokers' role in the 50 to 100 employee group market. Rates are determined primarily by group size and claims experience, factors that are outside of the broker's control. The change in definition of the small group market, as detailed below, has severely curtailed, and in many instances eliminated altogether, brokers' ability to negotiate a materially lower rate for their clients. Not surprisingly, brokers are beginning to find other ways to compete. In our paper titled Healthcare Reform and the Evolution of Broker Support Services, we discuss how the PPACA is changing the benefit brokerage business with brokers moving to provide compliance, human resources and other value-added services as competitive differentiators.

GROUP SIZE MATTERS

The PPACA's Employer Mandate requires every employer with 50 or more full-time or full-time-equivalent (FTE) employees to provide health insurance coverage to their FTE employees or pay a financial penalty to the federal government. The law also requires that coverage be PPACA-compliant, that is, it must conform to the coverage and benefits requirements contained in the law. The PPACA changed the way in which small plan underwriting is performed, expanding the difference between the underwriting requirements for small and large group employers.

¹ This paper addresses that question in the context of the fully-insured market only.

The distinctions between the differences in the rating requirements for small employer groups and large employer groups are discussed in more detail below, though groups of all sizes have seen dramatic increases in their health insurance premiums since the PPACA went into effect. With groups of 50 to 99 full-time employees scheduled to become subject to the small group rating requirements in 2016, a backlash arose from mid-level employers seeking to avoid the higher rates associated with community rated small group plans.

In October 2015, Congress passed the Protecting Affordable Coverage for Employees Act (PACE Act). The PACE Act repeals provisions of the PPACA that, effective January 1, 2016, mandated expansion of the definition of “small employer” from employers with one to 50 employees to those with up to 100 employees. This means in states that choose to continue to define small group as up to 50 employees, mid-sized employers may be able to avoid the potential increase in premiums that could result from a healthy employer group being included in a small group market with a bad risk pool. The PACE Act does not affect the definitions of large and small employers for purposes of the PPACA Employer Mandate.

Given the recent passage of the PACE Act, it is unclear whether states that made the change during this renewal season, in anticipation of the January 1, 2016 deadline, will revise their definitions back to pre-PPACA definitions or remain with the new definition. A state's definition of small and large group employers will greatly affect the way in which health insurance plans are rated and the impact brokers can have on those rates.

A LOOK AT SMALL GROUP RATING AND BROKER LEVERAGE

The PPACA prohibits insurance plans for small groups to charge higher premiums for pre-existing conditions, and plans are now rated based on modified community rating practices. This means that pricing of small group plans is required to be based on the plan's provider network, plan design or benefits offered, trend and claims experience of the insurer's pool, as well as administrative expenses of the insurer such as stop loss insurance, claims administration, care management and other overhead costs. The only allowable variations in plan pricing are for participant age, premium rating area, family composition and tobacco use.² Ultimately, this means that premiums are set by the insurer and approved by the states annually, irrespective of the ultimate pool of covered lives.

Standard, non-negotiable broker commissions are included in the rates for small groups. Although these commissions differ by insurer, typical broker commissions for small employer groups with fewer than 50 employees can range from \$25 to \$40 per employee per month. These commission amounts are embedded within the filed plan rates and cannot be changed.

² <http://kff.org/health-reform/fact-sheet/summary-of-the-affordable-care-act/>





Given these severe restrictions on the factors that insurers are permitted to use to calculate a small employer's rates, brokers for small group plans do not have leverage when it comes to negotiating community rated plan premiums. Community rated health plans may not be changed, regardless of the party soliciting the quote. Rates charged by the insurer may differ by employer or participant location but are not impacted by broker location or size. Therefore, if an employer gives the same census data to three different brokers, the insurance carriers will provide all three brokers with the same price options, assuming that all three brokers requested the same plan designs and networks for proposals. Insurance carriers are mandated to release the same quotes to brokers. Employers should be wary of brokers who claim the ability to negotiate a better rate with an insurer for these plans based on a special relationship with the insurer, the size or location of the broker or other reasons.

The only opportunity for a broker to change the rates quoted for a small employer group is by changing the plan design benefits or soliciting a bid from another insurer for a different plan. It is extremely important, therefore, for employers to compare provider network size and composition, detailed benefits and broker commissions when considering premium rate pricing.

BROKER LEVERAGE IN THE LARGE GROUP MARKET

Insurance carriers file large group premium rate ranges and the renewal formulary, essentially informing the method by which they will derive the renewal rates for their book of business, with each state. Unlike the small group rates that must be filed and approved by the states, large group rates are not "approved," but rather the underwriting methodology is presented to the state for the insurer to use in rating large groups.

As is the case with small groups, a large group providing the same census data to three different brokers will receive the same price options from the carrier, assuming all three brokers requested the same plan designs and networks for proposals. In the large group market, however, once the broker is named "Broker of Record," that broker can then attempt to negotiate the rate with the carrier.

Premium rates for large group plans are typically derived by:

- Applying trend to claims
- Adding stop loss, which is also determined by the insurer, as it holds the risk and claims processing administration
- Considering overhead, including what is necessary to maintain operations, healthcare management programs, etc.

³ <http://www.nhpf.org/library/other/InsuranceGlossary.pdf>



The insurer has the ability to revise the premiums based on the group's claims experience, also known as "experience rating."³ The larger the employer, the more emphasis an insurer will put on the group's claims experience compared to the insurer's filed rates. This is referred to as the group's "credibility." Employer groups in the fully-insured market begin to receive more claims experience from the insurer and become considered more credible when employee count reaches approximately 250.

The length of time a group is with a carrier also factors into determining credibility. The longer an employer group is with a particular carrier, the better the credibility is for that employer group. This underwriting discretion over the group's claim experience can in some instances provide the broker with an opportunity to persuade the insurer to reconsider the rate based on a review of the group's experience. In those cases, the broker may be able to impact the rate charged to the group.

In large group cases, renewal or proposal plans are often not accepted right out of the gate. Brokers can sometimes impact rates through:

- 1. Carrier Negotiation** – Brokers can try to negotiate with insurers on the insurance plan renewal or proposed premiums. If claim experience information is available, brokers can provide clients with an initial projection of rates prior to receiving the renewal. This way, the broker can verify the appropriateness of the insurer's quote and use the projection to try to negotiate a more favorable rate. Typically, an insurer will look for a loss ratio (paid claims and expenses compared to premiums paid) of 85 percent in order to provide a renewal consistent with trend. If the projected loss ratio is less than 85 percent, the broker has additional leverage for negotiation.
- 2. Marketing Efforts** – If the incumbent carrier provides unfavorable rates or the large group desires to change insurers, brokers may take the health insurance program out to market, requesting quotes from other insurers. Brokers can then use the competing quote as leverage in negotiating the proposed rating from the insurer or help the employer group move to a different insurer with a similar plan design and networks. Due to the significant changes imposed by the PPACA, brokers and employer groups are taking more of a "wait and see" approach and fewer groups have been changing carriers compared to pre-PPACA.
- 3. Plan Design Changes** – Unlike the plans filed for small groups, insurers have the ability to change the benefit plan provisions to achieve cost reductions. These changes include but are not limited to:
 - » **Reducing Benefits** – Naturally, plans with increased cost sharing to participants will reduce the overall cost of the plan. Plans can increase deductibles, decrease copays, coinsurance amounts, etc. in order to combat rising healthcare prices. Brokers can work with carriers to determine incremental decreases in cost for each proposed benefit change and should work with clients to evaluate the cost / benefit of making each change to the plan.

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- » **Narrow Network** – Insurers have different network options available for large employers for many plans. By reducing the number of providers in a network, insurers are able to provide more competitive pricing. Pricing differential between the comprehensive and narrow networks is determined by the insurer and based on the specific networks.
- » **Wellness Incentives** – As the healthcare landscape shifts to focus on employee engagement and wellness, many insurers will give plans slight discounts on premiums for including wellness programs or demonstrating a culture of wellness. For instance, employers agreeing to require plan participants to engage in wellness activities or complete health risk assessments may see a one to two percent decrease in premiums from insurers.
- » **Broker Commission** – Another way in which brokers can affect large employer healthcare rates is through broker commission. Unlike small group plans where insurers typically include a non-negotiable commission charge in the premium, large groups have more flexibility in revising or removing commissions. It is generally appropriate for a commission to approximate four to five percent of total medical spend. However, broker compensation can vary based on the insurer, the complexity of the group and the amount of work brokers anticipate throughout the year. Generally speaking, as a group becomes larger, commission percentage decreases.

Employer plan sponsors should always be aware of the compensation being paid to brokers, whether it is paid on a fee basis or through commissions embedded in the plan premiums. Employer plan sponsors should review their broker commission and discuss the opportunity to realign percentages paid to be equitable to the value of services provided by the broker.

Additionally, large employers also have the ability to remove the commission from premiums and pay brokers on a fee basis. It is important to note that the broker's ability to do this may be determined on a state-by-state basis. This prevents broker commissions from rising with the healthcare trend and can ultimately reduce the premium proposed by the insurer.

Regardless of how broker compensation is paid, all compensation should be indicated on any applicable Form 5500 filings to the Internal Revenue Service (IRS). These forms are required for plans with over 100 lives and report plan enrollment, cost and other important identifiers to the IRS. Embedded broker commission is currently required to be displayed on the Form 5500; however, it is best practice to require any fees paid to brokers to be provided on the forms to inform employer plan sponsors of the amount paid to brokers for the value provided.

CONCLUSION

A broker's ability to impact an employer group's health insurance premiums has been impacted by the PPACA, and ultimately depends on the size of the group. Small groups are essentially stuck with the premium rates issued by insurers and filed with the states, and must shop for different plans to obtain a lower cost. In the large group market, brokers have limited flexibility to impact rates if the carrier is willing to reconsider the group's experience or by changing the plan design, network and compensation structure. Obviously, the broker's likelihood of success in negotiating rate changes will increase as the size of the group increases.

As the small group market is community rated and there is no room for negotiation, brokers must expand services to compete in the marketplace. Similarly, the negotiation factors brokers have in the large group market are somewhat limited. Regardless of the employer size, the broker landscape has moved to competing on value-add services provided, not solely on the act of placing the coverage.

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