FMMA FAQ - Discussing Direct Care with Employers

These are the most frequently asked questions of the FMMA about interacting with Employers. There are no easy answers or miracle 'how to's'.

Employers are a very diverse group, having vastly different operating styles, structures, needs, and risk awareness and tolerance. Each employer must be dealt with individually.

1) **How do I bring up Direct Primary Care (DPC) or other direct care options directly to an Employer?**
This is a multi-layered answer due to the differences between employer types; dependent almost wholly on whether the employer is self-funded OR fully insured.

Self-Funded
Self-Funded employers pay for claims costs directly. These employers will be the most open to transparent, free market concepts that give them happy, healthy employees in the most cost effective way possible.

Reaching out to the larger employers in your area, the likeliest to be self-funded, is going to be the best strategy for all direct care providers. Who are the mid-size to larger employers in your area? It is very likely that they are self-funded.

Do you have a 150 employee manufacturer? How about a 500 employee electrical cooperative? Contact these employers and find out if you can work with them in a mutually beneficial way to provide great care at a great price to their employees.

Potential hiccups? Many self-funded employers utilize a large carrier as their Third Party Administrator (see *Are there different kinds of TPAs?*) or have a potentially anti-free market agent (see below). An employer who is really excited about what you are doing will demand their TPA or agent work with you and will follow up to ensure it is happening. They will not pawn you off on their vendors to 'handle.'

- DPC can save self-funded employers $$$ by stopping problems before they become expensive
- DPC can make employees healthier
- To be truly effective, DPC needs to be Voluntary
  - (also ACA issues can arise from forced participation)
- Promote voluntary DPC by holding an employee educational meeting and making a 'sales pitch' to employees about why they should participate

Fully Insured
Most small employers are fully-insured. This means that they pay a monthly premium to a big insurance company such as Blue Cross for benefits. Both fully insured employers and providers are looking for a health insurance product that works well with direct care.

One of the biggest issues with helping employers see the value in direct care is that fully-insured employers rarely (or never) see the savings provided by having this benefit. The insurer sees all of the potential savings. An employer can offset DPC, by incorporating a higher deductible health plan or a Qualified HDHP. A Qualified HDHP is a health insurance policy that has a higher deductible and lower premium than traditional health plans and allows contributions to a health savings account (HSA). However, these types of benefit plans are not always the best fit for an employer or their employees.

Smaller employers are almost always at the mercy of whatever insurance product is available through the Exchanges. What about higher deductibles to save premium?

The real motivator for smaller employers is employee health and morale. If they offer a program such as Direct Primary Care, it would almost always be with the goal of adding valuable employee benefits. Happier, healthier employees who have less absenteeism and better overall health and wellness can be successfully promoted to a smaller employer.

a. What is self-funding?
Self-funding, or self-insuring, means that employers take on the risk of their employees' claims expenses. This means that most pay their employee claims out of their operating budget. A self-funded plan is 100% funded by either the employer or the employee or a combination of both. This means that every dollar saved directly benefits your community employer and/or the employee. More than 60% of employee benefits in the US are paid by a self-funded benefit plan.

b. What is a Third Party Administrator?

A Third Party Administrator (TPA) processes the claims and helps manage the benefit Plan for a self-funded employer. A TPA's responsibilities include maintaining eligibility, adjudicating and paying claims, client customer service, provider customer service, utilization management, etc., plus arranging for services such as stop loss coverage, provider network access, a pharmacy benefit management company, and case management. A TPA also assists the employer with employee education.

There is more than one kind of TPA and this makes a huge difference in how a self-funded employer can respond to an independent physician or free market facility.

The presentation by FMMA Co-Founder Jay Kempton at the AAPS conference in January 2015 outlines the various types of TPA's and how they affect how a self-funded employer is able to work with you. Self-insured Employers Creating Opportunities For Independent Physicians *(YouTube; opens in new window)*

c. Are there different kinds of TPAs? Why is this important to me?

YES! Not all TPA's are created equal. There are three types of TPAs. The type of TPA an employer has hired drastically alters how a self-funded employer is able to interact with a provider.

Independent
ASO (Blue Cross, United, Cigna, Aetna, etc.)
Hybrid (uses a carrier PPO/network)

If an insurance carrier is the TPA or owns the PPO Network utilized, the employer will have LITTLE TO NO CONTROL over their Plan and it will be difficult for them to work directly with you. Even some independent TPA's aren't as free-market minded as The Kempton Group.

The presentation by FMMA Co-Founder Jay Kempton at the AAPS conference in January 2015 outlines the various types of TPA's and how they affect how a self-funded employer is able to work with you. Self-insured Employers Creating Opportunities For Independent Physicians *(YouTube; opens in new window)*

d. Should I partner with a TPA?

Seeking out free market friendly, independent TPAs can be very helpful. It never hurts to make an appointment to introduce yourself and what your business can offer their clients. Contracting with TPA's should NOT be your goal though. When an employer is self-funded, Plan design decisions are the employers. The TPA may want to promote the idea of DPC, and possibly your business, but again, they are not responsible for making final plan design decisions.

e. Should I work with an insurance broker?

Again, the answer is, it depends. Many agents and brokers will be opposed to the free market in healthcare.

Pro-Client Brokers vs. Pro-Broker Brokers

This may seem like an amusing comparison, but it is vitally important if you decide to partner with a broker or agent. Pro-client brokers are not nearly as common as they should be; a consultant or broker that is really pro-client will focus on what is best for the client. Not what is best for the broker compensation, but what is ACTUALLY best for the client and their goals.

Questioning "How does your compensation structure work?" or "How do YOU get paid?" can you give insight into what type of broker you are dealing with.

Consider this: when an employer has a bad health claims year, whether it be with a traditional insurance company or self-funded, their premiums increase (stop loss premiums for self-funded). An agent who is paid by the carrier based on a percentage of the premiums gets a **raise** when the group is performing poorly. Many employers want an agent partner who will work with them to educate and inform their employees about the best behaviors and healthful options. There is little incentive to spend precious time educating on concepts, or promoting direct care strategies, when the agent has financial incentive to keep the status quo.

Additionally, many large insurance agencies receive supplementary compensation for placing an employer with a specific insurance carrier. That carrier may or may not be in the best interest of the employer, but the pressure to write business with the companies who provide bonus kickbacks can be great. These incentives are not common knowledge among the public and are considered a tightly held secret from the client.

Frequently, pro free market providers and others must 'go around' an incumbent agent to assist the employer in promoting these options to their employees.

2) I have heard Obamacare outlaws employers paying for care? How does this affect and employer involvement in DPC?

The IRS prohibits employers from giving (or reimbursing) employees with pre-tax funds to buy health insurance on their own. The penalties only affect businesses with less than 50 employees because employers with more than 50 employees are already required to offer a health insurance plan. Nothing prevents employers from paying employees extra taxable income to buy health insurance.

3) How should an employer pay for DPC for their employees?

Important NOTE: To be truly effective, DPC needs to be Voluntary. ACA issues can arise from forced participation by an employer. Many DPCs focus on getting an employer to pay for ALL employees for the month or year in advance. This is a boon to the physician if an employer is willing, but it is not the only (or necessarily) the best way.

Employers Can:

a. Pay DPC's directly for employees
   i. Either all employees or just participating
      1. MUST Make Participation Voluntary

b. Reimburse employees for DPC through HRA
   i. This can be tricky because of IRS rules
   ii. Laws are in the works to change how IRS views DPC
   iii. HRA money cannot be used for 'access'
   iv. IRS doesn't distinguish yet that DPC is different than "Concierge Medicine"
   v. DPC fees are for CARE not ACCESS
   vi. Talk to your tax attorney / financial adviser!
   vii. Until new law is passed—Document, Document, Document!
   viii. Employees should document the 'care' they receive (save emails, texts, etc.)

c. The rules listed above are similar for Health Savings Accounts and Section125/Flex Spending Accounts. Since the money belongs to the employee in these instances, the IRS issues would be on them and not the employer. Employees should discuss this issue with their tax advisors.

4) I feel outside of my element and need additional assistance promoting my services.

There are companies that specifically assist with marketing and promotion of direct care and DPC services to the employers in your area, through social media and other avenues. Would you like more information on these companies? Contact us and we will assist!

5) Can direct care be used to help an employer or individual 'get out of Obamacare?

How do I 'get out of' Obamacare? How do I find a policy that isn't on the Exchange? How do I get out of complying? No employer or individual can 'get out of' Obamacare. Share the advice below with any employers who are asking this question.

Be very, very leery of any vendor, facilitator, adviser/consultant, or third party who says "You don't have to comply if you have x" or "those taxes do not apply if you are self-insured". Remember: Trust. But Verify.

<u>Individuals - What you cannot do:</u>

- Get out of the individual mandate.
- Likely, get a policy outside of the exchange.

<u>What you can do:</u>

What type of policy you can get depends on many factors, including the state in which you live. But, you CANNOT get out of the individual mandate. You either have a policy that is in compliance or you do not. If you do not have a policy, you will pay the fine unless you qualify for an exemption: https://www.healthcare.gov/health-coverage-exemptions/exemptions-from-the-fee/

Take your insurance back to its original intent: *catastrophic coverage*. Options:

- One thing you may be able to do to mitigate the cost of the coverage is to get a plan with the highest deductible allowed ($6,850 for 2016).
- To save on everyday expenses, shop for the best 'cash' price for services that fall under your deductible. Call around and ask questions! You are entitled to this information. Try using a tool such as Healthcare BlueBook to find the fair price for services in your area.
- For higher cost services, find providers who offer bundled cash pricing. You can also use services such as MediBid, which is like PriceLine for healthcare, to find free market friendly providers. The Free Market Medical Association has members that provide these services.
- Contract with a Direct Primary Care physician. DPC's charge a monthly fee for all primary care, and most times, specialty care. Do not confuse DPC with Concierge Medicine. The difference is that a DPC does not bill insurance. Your low monthly fee covers unlimited in-person visits, calls, texts, video chat, and many other options for contacting your actual physician (not a PA, not a nurse, not an answering service). DPC's are also very cost conscious on behalf of their patients, not merely referring a patient to another hospital employed physician or facility. (When employed by a hospital system, most times your employer's needs come before your patient's needs).

<u>Groups Under 50 Full Time Employees - What you cannot do:</u>

- 1. Get out of 'community rating'.
- 2. Not file your ACA Pay or Play reporting.

<u>Groups Under 50 Full Time Employees - What you can do:</u>

Unfortunately, not a whole lot. In the group market, an employer will be community rated. This means that the carriers only utilize a minimal amount of underwriting information (age and location). The older groups can only be charged 3 x's more than the youngest group. This is great for older, sicker groups. It is terrible for younger, healthier groups.

Options:

- Increase the plan's deductible.
- Offer an HRA to employees to cover the cost of Direct Primary Care. (see previous).
- Can you be self-funded? Probably not, but there ARE circumstances where groups a bit smaller than 50 employees can self-fund.

<u>Groups Over 50 Full Time Employees - What you cannot do:</u>

- Completely avoid cost increases
- Avoid ACA penalties for not having a plan that is compliant. A plan has to have:
  - Minimum Value
  - Affordability
  - Minimum Essential Coverage
- Avoid Pay or Play reporting
- Avoid paying other fees associated with the ACA, even if you are fully insured (they are passed on in your premiums).

<u>Groups Over 50 Full Time Employees - What you can do:</u>

- Go self-funded!
- Find a third party administrator who believes in the free market; if it's a carrier masquerading as a third party administrator, don't buy into the hype. Ask how they get paid- know up front if it is a TPA who believes in keeping a percentage of items such as subrogation recovery, out of network negotiations, or takes a percentage of your stop loss.
- Incent utilization of free market providers who believe in offering valuable goods and services. The Free Market Medical Association can assist!
- Research the ACA mandates and KNOW what you have to do to comply and avoid incredibly hefty penalties. Find an expert who offers advice based on your specific situation (likely an attorney; hopefully an ERISA attorney for self-funded clients). Make sure ACA consultants of any type can back up what they are advising with verifiable proof/facts.
- Remember, you cannot avoid the ACA completely. But you can lessen the impact of the ACA and the ever-increasing cost of healthcare. You just have to have the right tools and research!