Excise Tax Impact of Adding Wellness Benefits

Below is a discussion of carving out wellness from other heath benefits as a cost containment strategy and the potential impact of adding wellness benefits to excise tax thresholds.

Wellness Carveout

Any costs associated with the health and wellness platform must be weighed against cost containment strategies relative to the 2018 ACA Excise Tax on High Cost Employer-Sponsored Health Coverage and the risk of additional costs causing more health plan premiums to trigger excise tax coverage thresholds sooner than anticipated.

The excise tax is a 40 percent tax that applies to all applicable employer-sponsored health coverage and each coverage provider must pay its pro-rata share of the excise tax based on the total cost of applicable coverage. This means that if a CalPERS contracting employer offers benefits in addition to the CalPERS health plan, and the combined value of the applicable benefits offered exceeds the threshold, the CalPERS health plan will be liable for its proportionate share of the tax, regardless of whether the plan’s premiums are below the excise tax thresholds.

Proposed excise tax regulations are still pending. ACA language and Internal Revenue Service (IRS) codes do not explicitly exclude wellness programs from the excise tax and a current IRS regulation disallows carving out wellness programs from a health program. IRS final regulation T.D. 9697, Amendments to Excepted Benefits, which was published October 20, 2014, covers benefits that are generally exempt from health reform requirements added by the ACA, such as employee assistance programs (EAPs). Wellness programs are not considered excepted benefits under this regulation. Section (II)(B) states:

> Some comments requested that EAPs be allowed to provide wellness and disease management programs, provided such programs do not provide significant benefits in the nature of medical care. However, treating wellness programs as excepted benefits by including them in an EAP would circumvent consumer protections contained in the statutory standards for wellness programs under section 2705(j) of the PHS Act as enacted by the Affordable Care Act. This suggestion is not adopted in these final regulations.

At this time, it should be assumed that wellness costs will be included in the aggregate cost of employer-sponsored health benefits and subject to the excise tax regardless of how they are purchased or administered. However, this assumption should not impact CalPERS’ ability to conduct wellness pilots or an employers’ ability to utilize wellness benefits offered by CalPERS health plans, whose costs are already included in the health premiums.

<u>Tax Impact</u>
For purposes of illustrating the impact of adding a wellness platform benefit to potential excise tax liabilities, staff expanded the excise analysis presented at the August 2015 CalPERS Pension and Health Benefits Committee meeting. At that meeting, staff estimated a conservative three percent premium increase to health premiums for plan years 2016, 2017 and 2018, and found that such an increase would result in $18.4 million in premiums subject to the excise tax in plan year 2017 and the same increase for plan year 2018 would result in $26 million in premiums subject to the tax.

It is important to note that the estimate conservatively assumed static enrollment, a static excise tax threshold amount, straight-line annual premium increases of three percent, and did not incorporate a compounded tax impact year over year. Even without including compounded taxes, 2016 rates for seven of the health plans exceeded the excise tax threshold if it were in place today.

Staff analyzed excise tax impacts of plans in a traditionally higher-priced region compared to the rest of the state, the Bay Area, and focused on a plan which had the lowest excise tax liability for 2016 to see how adding a wellness platform benefit would accelerate that tax liability. Anthem HMO Traditional Bay Area was selected because the 2016 single party premium barely breaks the excise tax annual dollar threshold of $10,200 per year for individual coverage: it exceeds the threshold by $65.04. Family plan premiums are not estimated to break the $27,500 family plan threshold until 2018, and it is at this point that the estimated tax liability accelerates.

The table below shows the impact of adding a deluxe wellness solution in 2018, which is the first year the excise tax will be levied. A deluxe solution includes biometric screening to identify and measure participant wellness needs and results.

Estimated Anthem Traditional HMO Bay Area Excise Tax*	
2016 tax	$24,000
2018 tax assuming 3% annual premium increase	$622,000
2018 tax liability with added deluxe wellness benefit	$867,000

*This table represents a straight-line projection to illustrate a hypothetical scenario. The estimates do not represent any statement by CalPERS or any of our contracting health plans as to the actual or expected plan premium in any year.

If a wellness benefit is added in 2018, it will increase the excise tax liability for this plan in this region by 14 percent, or $245,000. Based on the assumptions and example outlined above, the additional liability will result in higher rates for all CalPERS members and employers as CalPERS' health plans build their proportionate share of the excise tax into future health rates.