

Interagency State Health Reform Task Force  
The Patient Protection and Affordable Care Act (PPACA)  
Indiana Statehouse, 200 W. Washington Street, Rm 233  
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OPENING REMARKS

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BEGIN ORAL REMARKS

I am grateful to the Task Force, FSSA, and the Indiana Department of Insurance for inviting me to join this discussion. I am David Wulf, Vice President for Templeton Coal Company, Inc. in Terre Haute. Templeton develops contiguous tracks of coal reserves, leasing those reserves to mining companies. Templeton also manages a diversified group of non-coal related businesses in manufacturing and distribution located in Indiana and Iowa, employing 415.

Facing a five year 9.6% premium increase trend, Templeton has been moving its employee population into fully insured consumer driven health plans. Most recently, we have begun to implement a Biometric Based Wellness Plan that will offer financial incentives for employees to make healthy life style choices that better their quality of life, while reducing the company's health insurance expense.

Along with purchasing \$3 million in health insurance each year for Templeton's multi-state operations, I serve in a variety of national, state, and local roles representing employers who pay for employee health benefits, including chairing the Indiana Chamber of Commerce's Health Care Policy Committee.

The United States health care system has set the standard for the world and is inherently important to preserve. We have the best facilities, providers, and researchers developing the finest treatments and technology. However, over the past few decades, restricted access to care and unsustainable escalation in health care utilization has destabilized our system, leading to calls for reform.

The Patient Protection and Affordable Care Act (PPACA) does little to reduce the unsustainable escalation of the nation's health care cost. PPACA inadequately addresses the cost drivers in the health care delivery system and it will severely damage the employer-based healthcare system.

**MY RESPONSES TO THE QUESTIONS POSED BY THE TASK FORCE**

To keep my remarks brief, I would like to speak directly to the first question that you posed in your invitation letter. I have provided responses to questions 2 and 3 in my written remarks, which I will provide you when I finish.

**QUESTION #1: What pieces of PPACA reform concern you and/or your business the most?**

- **BEGINNING 2011:** Estimates suggest that the cost of the 2011 PPACA changes being imposed on our plan will be relatively modest. We have been expecting to see at least a 3% rating increase for PPAC related mandates. Unfortunately, I am told that the 3% estimate may be low, as recently released HHS regs may increase the provision of preventative benefits much more than we expected. However, a much larger increase than 3% will come in 2014 when the more comprehensive PPACA changes take effect.

The 2011 PPACA related rating increase results from eliminating the pre-existing condition exclusions for those dependents to age 19, extending coverage to children up to age 26, elimination of lifetime 'Essential Benefit' limits, and expansion of preventative care requirements beyond the generous schedule already included in our plan. Further, we will see substantial intangible cost increases from new government reporting and compliance requirements.

We will likely see no real benefit from the MLR (medical loss ratio) regulations, since as a large group we already negotiate those costs directly with the carrier. We have always have done better than

PPACA's 85% large group limit. That could partly be because we don't compensate a broker as part of our premiums.

- **BEGINNING 2014:** We have been unable to gather an estimated cost impact for 2014, but I expect a strongly double-digit impact. We know that rates will be substantially impacted when we eliminate ALL pre-existing conditions exclusions, eliminate ALL annual limits, and have to increase the cost of the underlying insurance policy for our Health Savings Account because of regulations on out-of-pocket costs.

The issuance of recent regs makes it clear that attainment of 'grandfather status' is a virtually impossible shelter to seek from more federal mandates, since the 'grandfather rules' appear to be designed to prevent anyone from actually using them.

Without a grandfathered plan, in 2014, we are mandated to provide coverage for experimental drugs and procedures, reimburse emergency room claims always at 'in-network' rates, and expand our current internal ERISA appeals process to provide binding arbitration.

- **FINANCIAL IMPACT ON OUR EMPLOYEES:** Of course, it is not only the company that suffers from those increased costs - our employees pay 22% of the cost of premium, on average. PPACA takes away many of the tools we have provided our employees to manage these costs.

For instance, PPACA prohibits employees from receiving reimbursement for their 'over the counter drugs' expenses in our consumer driven health care plans. PPACA will force a substantial premium increase in 2014 when insurers are forced to decrease the maximum out of pocket costs - a cost that Templeton has been subsidizing for its employees through Health Saving Accounts. FSA's have been limited. PPACA has also increased the excise tax penalties on our employees who mistakenly make a purchase through their Health Savings Account for an item that the regs disallow. Templeton will be compelled to impose 'auto-enrollments' on its employees.

- **CONCLUSIONS:** As bad as it is, the impact on large group plans like Templeton's will be much more modest than impact on small group and individual plans. As chairman of the Indiana Chamber's health care policy committee, I hear discussions of how severely the markets for individuals and small groups will be impacted.

In 2014, large groups like Templeton will need to decide whether to continue its employee health care plan or let their employees obtain individual policies through the state's Exchange. Our likely 2014 gross premium cost is estimated to be \$5.4 million with a net employer after tax cost of \$2.5 million<sup>1</sup>. If we discontinue the coverage and simply pay the penalty, our 2014 cost is about \$770 thousand<sup>2</sup>.

If nothing changes, it is likely that the following conditions will exist in 2014 that will induce large employers to cease the provision of employee health care benefits.

- a) Employees are now freely able to purchase individual health insurance from the state exchange without needing to purchase it through an employer
- b) The cost of the penalty is much lower than the cost of providing insurance, as illustrated in the case of Templeton Coal Company, allowing significant money to assist employees' purchase of individual insurance, and still allowing a savings for employers.
- c) Employers will see substantial intangible cost savings by avoiding the new government reporting and compliance requirements if they no longer provide health insurance.
- d) There is a prevailing belief developing in the large employer community that health insurance is no longer needed to attract and retain employees (the reason we provide the coverage).

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<sup>1</sup> Estimated 2014 premium: \$3 million x 1.13 X 1.13 X 1.13 X 1.25 = \$5.4 million total premium - 22% EE share = \$4.2 million ER share - 40% tax = \$2.5 million after tax cost to Templeton. This applies an estimated 13% trend to years 2011-13 and a 25% trend to 2014. EE = 'employees', ER='employer'

<sup>2</sup> Estimated penalty for discontinuing health coverage is (based on today's headcounts) (415 EE - 30EE) x \$2,000 = \$770,000 - 0% tax = \$770,000 after tax cost to Templeton. EE = 'employees'

The Congressional Budget Office cost estimates excluded the possibility of employees from large groups finding their way to the exchanges in 2014. A new Congress may act to change what I believe is an intentional design to force employers out of the business of funding health care. Nevertheless, without Congressional or judicial action, I believe the state exchanges could easily be overwhelmed by the enormous influx of the newly uninsured exiting large group plans.

- END OF ORAL REMARKS -

**QUESTION #2: What do you see as the current and future impacts of the PPACA to your business?**

Passage of PPACA has introduced much cost, uncertainty, compliance, and reporting issues. It has been suggested in my readings that the 2,200 pages of PPACA legislation will lead to over one million pages of regulations. Further, there is the likelihood of a new Congress in January that will be inclined to make more major changes. There are multiple lawsuits, including one from the State of Indiana, seeking to strike down major portions of PPACA.

Given vast complexity of establishing PPACA and these regulatory, political and judicial variables, business leaders really have no certainty at all as to what will really unfold over the coming years, and so have no means to effectively plan for it. In business, uncertainty generally will lead to inaction that brings about stagnation of economic markets and a shrinking job market.

PPACA will bring disruption and major changes in our economy that will distract business leaders from our core mission of producing their products or services. It interferes with our ability meet the specific needs of our people and forces us into a 'cookie cutter' system where we ignore the needs of our workers to comply with government fiat. None of these issues are of concern to our foreign competitors who will take the opportunity to further erode the competitive position of American business in domestic and foreign markets – not good for Indiana jobs.

**QUESTION #3: What are your thoughts and concerns regarding the Health Care Exchange(s)?**

It is my understanding that the question being asked is, "Should the exchanges be administered by the state or the feds?" To me, it seems that this is the political question that the Governor's administration needs to solve.

- **REASONS TO GIVE IT TO THE FEDS:** If I were absolutely convinced that PPACA would NOT substantially change through legislative and judicial action, I would probably favor the state opting out of establishing a state run exchange. I would favor kicking it to the feds and let them handle the complex, vast, and uncertain mess and likely program deficit.
- **REASONS TO ADMINISTER IT IN THE STATE:** If I felt that PPACA might be substantially reformed or repealed and replaced, I would favor retaining state control of the exchange. Some form of the exchanges would likely continue to exist in any reform plan. That would allow Indiana to customize the exchange to best meet the need of Indiana's citizens, avoid unprecedented federal control of a huge segment of our Indiana economy, and avoid federal control of Indiana's spending on its public health assistance programs.