While self-insured employers have struggled to comply with the Affordable Care Act (ACA), self-insured Taft-Hartley plans also face an even steeper uphill climb — with added costs that could alter the course of historically generous benefits and collective bargaining agreements.

Ed Smith, president and CEO of ULLICO, describes the overall market state as “very challenging,” noting a declining economic impact on the nation’s most-unionized industries since the Great Recession and medical inflation outpacing wage inflation for more than 30 years.

The ACA has imposed a transitional-rate insurance fee, also known as a “belly button tax,” which essentially amounts to a reinsurance fee on carriers that no longer are allowed to charge higher premiums to sicker plan participants. Last year’s $63 charge for each covered life fell to $44 for 2015 and will drop to $27 in 2016. Plans that are both self-insured and self-administered are exempt. It is estimated that 20% of Taft-Hartley plans fit that definition.
Smith, whose insurance and financial services holding company serves union members, says there’s no way for these jointly administered health plans to recoup that money and fears the Taft-Hartley market will shrink over time unless there’s regulatory relief.

“They simply have to write a check out of their self-insured plans to cover this tax,” he notes. “It’s very punitive because that money comes either out of the worker’s pocket or the company’s pocket, and they’re struggling to keep their businesses alive, and the worker is struggling to keep his house and car, etc.”

**Unfairly Penalized?**

Randy DeFrehn, executive director of the nonprofit National Coordinating Committee for Multiemployer Plans, says organized labor’s main gripe with the ACA is that their health plans were already doing what the landmark legislation sought from small employers, which was to help them obtain affordable, high-quality coverage by pooling their purchasing power and eliminating pre-existing conditions.

Industry insiders agree that the result, even if it’s an unintended consequence of health care reform, is that the ACA has seriously hampered the ability of self-insured Taft-Hartley plans to maintain the level of operational efficiency that they’ve long enjoyed.

“Our belly button tax was about $933,000 in 2015,” reports Barry McAnarney, executive director of the Massachusetts Labor Benefit Fund (MLBF). “That’s less money we have to pay on our plan... We think it was commendable that more than 11 million people have signed up [for health insurance coverage through Obamacare], “but we think that by charging us the belly button tax for something we were providing that we’re the ones being penalized.”

Self-funded Taft-Hartley plans cover between 10 million and 11 million of the nation’s roughly 15 million rank-and-file union members, as well as another 10 million to 14 million dependents, estimates Michael Jordan, president in the labor and strategic accounts division of MagnaCare, which manages and administers claims in the self-insured Taft-Hartley market. He says that’s a far cry from about 30 years ago when there were about 18 million unionized workers representing 20% of the workforce and the manufacturing sector was much stronger.

The Taft-Hartley model, though overwhelmingly built around self-insurance, also features a mix of fully and self-insured plans, and single and multiemployer plans, depending on the market. In the steel industry, for example, DeFrehn points to longstanding relationships that have been maintained with Blue Cross and Blue Shield plans, whereas in certain parts of Pennsylvania and New York plans might self-insure outpatient care, but turn over inpatient care to a Blues plan or other major carrier that can command better discounts.

Another critical factor is that whereas many of these plans once had a $1 million maximum on major-medical expenses, the ACA has eliminated the use of annual and lifetime caps. So that’s one cost-control mechanism that’s now off the table. On top of that is the widely anticipated 40% excise tax on Cadillac-style health plans that takes effect in 2018.

“No good deed goes unpunished,” Smith quips.

There’s also a patient-research fee, which went from $1 per covered life a couple of years ago to $2.80 per life, according to Jordan. Yet another cost driver is that the ACA allows for dependent coverage up to age 26, adds DeFrehn, describing the added tax burden as “a transfer of assets from self-funded programs to commercial insurance carriers.”

He says other considerations include a heavy mix of pre-Medicare retiree coverage for people who are at the high-cost end and those who live in major metropolitan areas, particularly in the Mid-Atlantic and Northeastern states. Many Taft-Hartley funds also cover retiree populations, whose longer life expectancy costs more than what was anticipated 10, 20 or 30 years ago, Jordan adds.

Then there’s the issue of a lagging economic recovery that prevented some rank-and-file members from working enough hours to maintain their eligibility for health care coverage in the first place, DeFrehn notes. But he’s sanguine that a higher demand for skilled labor projected over the next decade or so could enable Taft-Hartley plans to grow again.

**Staying Competitive**

Employers that contribute to Taft-Hartley plans, no doubt, are facing higher health care benefit and pension costs, which, in turn, places tremendous pressure on wages.

“You get to the point where you’ve maxed out on competitiveness, and the only place to get additional cost is to get back to the worker and take a bigger piece of the pie for his compensation,” DeFrehn explains. “So you end up with some workers that aren’t very happy because they don’t get raises.”
As a result, the ACA has forced self-insured Taft-Hartley plans to determine better ways to remain competitive in terms of wages and benefits for rank-and-file members, Jordan says. Beyond tweaking co-pays and deductibles, he sees promise in high-performance networks, customizing certain benefits and member-engagement strategies that help plan participants become much smarter consumers of their health care.

“Many of these plan sponsors are going to have to take a step back and figure out, ‘how do I stay below that threshold where I’m going to incur even greater cost that what I’m seeing today?’” he explains. In anticipation of the Cadillac tax, Jordan notes that many of these funds will face a significant tax above a certain threshold. “Today it’s $27,500 a family,” he says. “It will change by the time we get to 2018. That’s not anything that’s tax deductible, and that’s above the cost of the plan.”

With its back against the wall, the MLBF now needs to reach far above any low-hanging fruit to save on health care costs. Among the strategies it is now pursuing on behalf of its members and their families: encouraging the use of nurse practitioners at CVS and Walgreens drug store chains, as well as urgent care centers as an alternative to hospital ERs. Express Scripts also is used to help manage pharmacy benefit claims.

The MLBF, which has been around since the 1960s, covers about 20,000 lives, approximately 8,100 of whom are union members working in construction and on roadside crews across New England who also receive a pension and annuity fund.

The union last year paid out about 250,000 medical, hospital, pharmacy dental and vision claims totaling an estimated $80 million. Roughly 800 contractors contribute to the union’s funds during the prime construction season. The fund’s focus is on preventive care and wellness, with no deductibles on physicals for member and their spouses.

Some Taft-Hartley plan sponsors and unions have encouraged mergers with the small plans to try to better manage administrative costs by achieving economies of scale to which the larger plans have become accustomed, DeFrehn notes.

One last piece of the puzzle is to lobby Congress to reduce the tax burden on these plans, though it won’t be easy convincing conservative Republicans to pursue an action that could be seen as a favor to the organized labor movement.

“We spent a lot of time with the administration to convince them that the statute did not give them the authority to impose the temporary reinsurance

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fee on self-funded, self-administered plans,” DeFrehn says. “Eventually we were successful, but only for the second two years. They had already sent out the notices to the insurance carriers as to what their portion of the temporary reinsurance fee would be and to build into their premiums.”

These plans have typically been ""pretty well managed" because union members view their health and welfare benefits ""as a direct offset of money they would otherwise get in their compensation," according to DeFrehn. ""So they're typically very cautious about not being excessive in benefit structures and also trying to keep some kind of containment on the costs themselves by accessing discounted provider networks, going through PBMs and formularies, those kinds of things."

On average, Smith says 90% of union health plan contributions revert back to workers and their dependents, while the rest covers administration costs. “That is a great statistic when you look at how efficient these plans have run,” he says.

As such, he believes self-insured Taft-Hartley plans offer the self-funded community at large valuable lessons in cost efficiency, as well as plan design and personal service to the employees and their dependents. “It’s really a hands-on approach,” he adds.

Bruce Shutan is a Los Angeles freelance writer who has closely covered the employee benefits industry for more than 25 years.

SIIA Forum Targets Taft-Hartley Plans

Mindful that self-insured Taft-Hartley plans face an uphill battle in a post-health care reform environment, SIIA has sought to engage more directly with this market segment.

“It has become increasingly clear that the interests of self-insured Taft-Hartley funds and employers are closely aligned in many cases,” explains SIIA President and CEO Mike Ferguson.

SIIA will host the Self-insured Taft-Hartley Plan Executive Forum at the Marriot Metro Center in Washington, D.C., on April 29-30 – featuring leading industry experts and unique networking opportunities.

Keynoters will include Mike Ferguson and Leo Garneau, SVP of PHX. The event also will feature the following educational sessions:
- Understanding the Value of Your Self-Insured Plan
- Plan Design Strategies to Control Costs
- Knowing Your Provider Payment Option
- The Stop-Loss Insurance Carrier Perspective
- Legislative/Regulatory Update
- Approaches for Providing Coverage for Early Retirees