# Spousal Surcharge Programs—

## An Overview

by Hudson A. Peters, CEBS

Spousal surcharge programs help employers whose goal is to provide "above-average" health benefit plans by limiting the potential "financial leakage" liabilities from covering the spouses of employees who are eligible for other health care coverage. Spousal surcharge programs are just one alternative available to help employers manage the rising cost of providing health care coverage to dependents. This article explores the prevalence, plan design, financial implications, administrative and other considerations in implementing a spousal surcharge program.

Spousal surcharge programs have gained popularity in recent years due to the rising cost of providing health care coverage to employees and their eligible dependents. In the past, when the cost of health care was lower, employers did not pay much attention to the cost of providing coverage for an employee's dependents. However, with health care costs increasing at double-digit rates, most employers are taking a much closer look at dependent costs.

Several decades ago, most employers offered benefit plans at low (or no) cost to employees and their dependents. According to the *2003 National Survey on Employer-Sponsored Health Plans*, employees of large employers (500-plus employees) electing family coverage today contribute 30% of HMO costs, 32% of PPO costs and 31% of POS costs. Average *family* (defined as employee plus spouse plus two children) monthly premium contributions ranged from \$200 to \$235.[1]

However, not all large employers charge employees for participation in an employer's health care plan. The same survey showed that 4% to 10% of employers do not require contributions for employees electing family coverage (depending on plan type) as shown in the figure on the next page. These no-contribution employers are prime candidates for adverse selection (who wouldn't take "free" coverage?) and could potentially benefit from a spousal surcharge plan.

Not only large employers are a target. According to the same survey, small employers (those with less than 500 employees) have an even higher incidence of not requiring contributions from employees, making them good candidates for spousal surcharge programs as well.

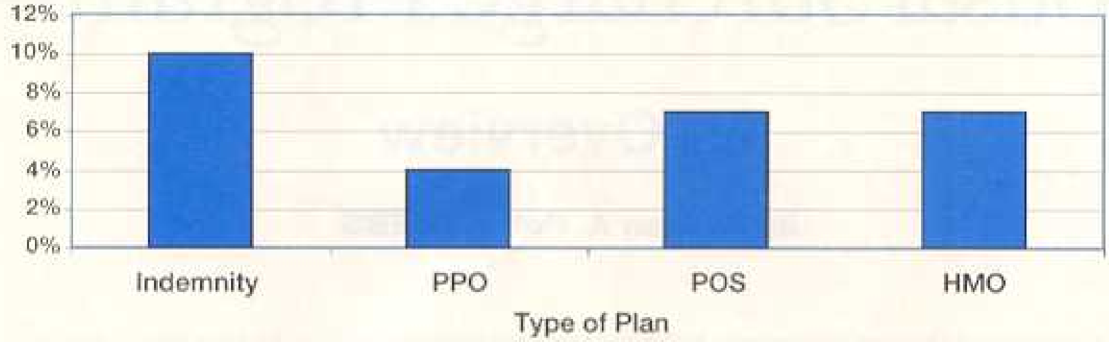
### COB ONLY GOES SO FAR

When the cost of health care coverage was lower, it was not uncommon for employees who had a working spouse to have two benefit plans covering the family when the perceived contribution cost for dual coverage was low. Since many employers now charge substantially higher contributions for family coverage, employers who do not charge their employees market-based contributions have found themselves to potentially be a "target" plan for many families.

To ensure that employers only paid their fair share of expenses, coordination of benefits (COB) rules were developed to deal with dual-covered enrollees. In essence, COB rules normally provide that the plan that covers a person as an active employee pays before the plan that covers a person as a nonactive dependent. While COB rules prevent employees and

▶ **FIGURE**

## EMPLOYERS THAT DON'T REQUIRE A CONTRIBUTION FOR FAMILY COVERAGE




*Source: Mercer National Survey of Employer-Sponsored Health Plans,* 2003 (Large employers: 500+ employees).

spouses from "profiting" from the existence of double coverage, COB rules only come into play when double coverage is actually present. COB rules do nothing to require that a working spouse be covered by their own employer's plan. Employees and their dependents are typically free to choose the plans that best meet their needs. In most cases, the employee and family make a choice after reviewing their payroll cost of coverage (contributions), the potential out-of-pocket costs (plan design) and access to providers. This ability to choose benefit plans between spouses helps foster employee attraction/retention initiatives, but also creates an economic drain on employers who offer more comprehensive benefit levels (higher plan design features or lower payroll costs) as employees typically select the benefit plan that is most beneficial to them.

### THE CHANGING PLAN DESIGN LANDSCAPE

With rising health care costs and new benefit plans available (such as HMOs, PPOs and POS plans, etc.), employers introduced a variety of cost-sharing features such as deductibles, copays, etc., and various increasing contribution strategies. As some employers raised employee contributions or increased cost-sharing requirements, employers found that employees (whose spouses worked elsewhere) were dropping health care coverage and using the coverage of the spouse whose employer's plan either provided better coverage, cost less, or both. The bottom line of these plan design changes was a financial advantage to that plan. However, the opposite effect also occurred; employers that provided or maintained traditionally higher coverage levels or required lower-than-market contributions from employees found themselves in the position of having a larger number of employees "electing" that employer's plan for coverage for the family.

In summary, the term *spousal surcharge* came into existence to help employers level the playing field. An employee wishing to cover a working spouse who was also eligible for health coverage at the spouse's employer (but declined coverage in favor of the employee's plan) would have to pay an additional contribution, known as the *spousal surcharge*. In essence, the surcharge is designed to reimburse the employee's plan for the cost of the potential adverse selection of the spouse's decision to forgo his or her employer's plan and provide a financial incentive for the spouse to enroll in that plan. The spousal surcharge has been used as a method to ensure that other employers also pay their "fair share" of health care expenses for their own employees.

### PROVIDING FOR EQUITABLE BENEFITS

Employers use a variety of methods to provide fair, comprehensive benefit plans to employees and their spouses including:

- Spousal surcharge plans (the subject of this article)
- Waiver *opt-out credits*—where eligible participants are paid a credit to opt out of the plan
- Spousal *carve-out* plans—where spouses are not allowed to enroll in the plan unless they can prove that other coverage is not available to them from another employer
- Nonstandard coordination of benefit rules ad-

ministration—where alternative COB rules are used to limit coverage in dual-coverage situations
- Limiting the dependent age for eligibility
- Auditing plan eligibility and removing noneligible dependents.

## PREVALENCE

A general review of national benefit surveys found some interesting trends regarding the prevalence of spousal surcharge requirements in the past few years:[3]

- Approximately 5% to 16% of employers have already implemented some form of surcharge for employees covering their spouses if the spouses are eligible for other coverage but not actually enrolling in the spouse's plan.
- About 30% to 40% of employers are considering adding a spousal surcharge requirement to their benefit plans in the next few years.

## PLAN DESIGN

Most plans adopting a spousal surcharge will require that an employee who enrolls his or her spouse for health care coverage must pay a surcharge to cover that spouse, unless the employee can certify that his/her spouse is

- Not employed
- Not eligible to enroll in other coverage through the spouse's employer
- Eligible, but prevented from participating in that employer's plan (only in rare instances).

Plans that sponsor domestic partner coverage would also need to determine if the spousal surcharge applied to domestic partners as well.

In the operation and communication of such a plan, employees are provided with a communication that typically states the following:

> If your spouse is eligible for other group coverage through another employer, but does not enroll in that employer's plan, you will be required to pay $xx (per month/pay period) as a spousal surcharge. This surcharge is intended to support the added cost to our plan of paying benefits for working spouses who could have a portion of their benefits paid by another plan.

The surcharge is generally waived in four situations:

1. The spouse enrolls for coverage under his or her own employer's plan.
2. The spouse's employer does not provide medical coverage or the spouse is excluded from coverage due to other eligibility provisions.
3. The spouse works for the same employer as the employee (in which case the employer may require that employees may only be covered under one family plan).
4. The spouse is not employed.

Some employers will also waive or moderate the amount of the surcharge based on the household income of the family.

### *Fixed Amount Surcharge Methodology*

In reviewing typical employer offering, amounts of the surcharge vary from employer to employer. Employers implementing spousal surcharge programs generally require surcharges ranging from $30 per month to more than $200 per month. A prevalent fixed fee surcharge seen in the employer market today ranges around $50 to $75 per month.

### *Balance Bill Surcharge Methodology*

Some employers will also target a percentage of the spousal add-on cost as the basis for the surcharge. The following example illustrates this option:

Employee only coverage cost per month: $300 per month

Employee + spouse coverage cost per month: $700 per month

Add-on cost for spouse: $700−$300 = $400 per month

Result (at a 50% surcharge target) = $200 per month (surcharge).

In most cases, the surcharge applies only to those cases where the spouse is eligible for other coverage from the spouse's employer, but declines such coverage. If a spouse is eligible for other coverage at the spouse's employer and enrolls in that plan AND still requests coverage with the employee's health plan, then the surcharge does not apply. This is because most COB provisions maintain that in the case of dual coverage, the primary coverage for the spouse is the plan that covers that spouse as an employee. In

**▶ THE AUTHOR**

**Hudson A. Peters, CEBS, GBA, RPA,** is a senior consultant with Mercer Human Resource Consulting in Cincinnati, Ohio specializing in the design of employer-sponsored health and welfare plans. He is a fellow of ISCEBS and is active on the board of the Cincinnati/Dayton Chapter.

these situations, the employee's plan is secondary to the spouse's plan (and claim liability is reduced). In the future, with the rise in the use of higher deductibles and the rising prevalence of catastrophic/consumer-driven plans, some employers may invoke a more aggressive spousal surcharge design due to the potential additional costs to the employer of providing double coverage (even while secondary).

In most cases, the design of the spousal surcharge depends on the underlying contribution structure and plan design of an employer's benefit plan. If an employer charges below-market employee contributions for medical plan coverage, the spousal surcharge required to prompt spouses to take their own employer's plan may require a large surcharge to produce the desired effect.

*In general, the majority of employers have relied on an "honor system" for policing adherence to the surcharge policy. However, a growing number of employers have begun to require employee statements (which are included in the enrollment materials).*

## ADMINISTRATIVE IMPLICATIONS

There are several administrative issues that need to be addressed if an employer adopts a spousal surcharge provision.

- **Employee statement/proof.** Under most spousal surcharge programs, the employee must prove or certify that his or her spouse who is enrolling in the plan has no other coverage available. As a result, forms providing this statement/proof need to be given to enrolling employees. They could include affidavits of other coverage availability or other methods.
- **Policing of statements/proof.** Employers need to decide how these assertions by employees will be monitored and the consequences of providing false information (i.e., subject to termination of employment, etc.).
- **Scope of surcharge.** Will the spousal surcharge requirement also apply to a domestic partner?
- **Assumptions for implementing surcharge.** Will the employer implement the surcharge only when employees have indicated that the surcharge applies to them (via enrollment forms or at open enrollment), or will the employer assume that all spouses should be initially charged the surcharge and only after the employee can demonstrate that the spousal surcharge does not apply will the surcharge be removed?
- **Taxation of surcharge.** Employers need to determine if the amount of the spousal surcharge will be administered on a pretax or posttax basis (i.e., if the employer sponsors a Section 125 premium reduction plan for regular plan contributions, will the surcharge also be pretax?).
- **Status change.** Employers need to address the situations that may arise in the course of a benefit year that may allow a spouse to rejoin the plan, or have the surcharge no longer apply (i.e., in the case of a job loss, reduction of hours to part time, etc.).
- **Definition of *other coverage*.** Because employer plans and employee cost contribution requirements vary greatly, employers may wish to adopt certain standards of coverage for the spouse's plan that must be met for the surcharge to apply. For example, some plans don't require the surcharge if the spouse is required to contribute more than 50% of the cost of coverage, or if the plan's design is catastrophic in nature (higher deductibles, etc.). An employer adopting these rules needs to determine the applicable terms and definitions and rules for evaluating other coverages in order to administer the surcharge properly and fairly.
- **COB rules.** Employers need to ensure that their COB rules are up to date and adequately deal with the issues involving spousal coverage.
- **Payroll systems.** Payroll and contribution handling/processing must be established to collect the surcharge.

In general, the majority of employers have relied on an "honor system" for policing adherence to the surcharge policy. However, a growing number of employers have begun to require employee statements (which are included in the enrollment materials). A smaller number of employers actively require proof of other coverage. A smaller group of employers has also begun to consider implementing spousal surcharge programs on an *automated/assumed* basis, meaning

▶ TABLE

## SPOUSAL SURCHARGE: FINANCIAL IMPACT IF SPOUSAL SURCHARGE IS IMPLEMENTED

| Positive | Negative |
|---|---|
| Cash flow derived from the spousal surcharge credit itself | Loss of "contribution revenue" should the spouse now terminate coverage under the plan due to the imposition of the surcharge |
| Reduced premium (or claim expense for self-funded employers) liabilities for spouses that drop coverage due to the spousal surcharge | Lowered FICA and other applicable tax savings due to reduced pretax contributions if spousal coverage is dropped |
| Increased COB savings if dual coverage exists (i.e., the spouse elects coverage with their employer and remains as a spouse participant in the former plan) | A potential "selection factor" health risk bias for spouses that remain on the plan under the surcharge (adverse selection) when other coverage is available. Will the surcharge be enough to offset this adverse selection? |
| | The "truth factor" cost of "lying" about the availability of other coverage for the spouse and cost to administer |

that the surcharge is assumed to apply to all enrollments where a spouse is enrolled and it is up to the employee to request a waiver (i.e., the spouse does not work or is not eligible for other coverage, etc.).

## FINANCIAL IMPLICATIONS

In general, spousal surcharge programs provide several economic effects for employers. The table above shows the financial positives and negatives of implementing a spousal surcharge requirement.

## PROS AND CONS OF A SPOUSAL SURCHARGE

There are several pros and cons that employers should evaluate before considering a spousal surcharge program.

*Pros:*

- Provides an incentive for spouses with other coverage available to enroll in their own employer's plan
- Levels the playing field among employers with varying levels of benefits and contribution requirements (i.e., pay your fair share philosophy)
- Lowers the cost to the plan for each spouse that has coverage available elsewhere but declines such coverage
- Allows for an employer to use an employee statement to verify nonexistence of other coverage for administrative simplicity
- Supports a health care consumerist strategy
- Allows employers with high levels of coverage (such as municipalities and schools and other industries) to avoid becoming the "targeted benefit provider" of working spouses with other coverage available.

*Cons:*

- Is subject to union bargaining (if applicable)
- Raises employee relations issues
- Raises suspicion of "marital status discrimination"
- Requires additional resources to enforce the provisions
- Requires additional payroll deduction resources
- Requires communications support (and resources).

## OTHER CONSIDERATIONS

In addition to administrative and financial considerations, employers should also consider the following:

## IS MY PLAN RIGHT FOR A SPOUSAL SURCHARGE REQUIREMENT?

Because employer health plan offerings will differ greatly by industry, region and other factors, there are no clear "yes or no" decision criteria widely available as to whether a spousal surcharge requirement will work for all employers. In addition, each employer's culture and benefit strategy will also affect whether an employer sponsors a spousal surcharge program and its effect on employee relations. An employer will also need to weigh various financial, administrative and other considerations (see accompanying article) in determining whether a spousal surcharge program makes sense.

However, in the absence of clear yes or no criteria, the following list of plan attributes generally favors implementing a spousal surcharge program:

- The plan has lower contributions than other employers (or charges no contributions).
- The plan design is more favorable than other comparable employers.
- The employer is part of a uniform "corporate" design that has not been adjusted for local market conditions (i.e., the employer is located in various economically depressed local geographic regions and offers a corporate benefit pattern of providing benchmarked industry standard benefits, which consequently provides higher benefits than the majority of the local employers).
- The number of members (especially spouses) per employee is higher than industry/regional actuarial standards.

- **Health care benefit strategy.** How does the spousal surcharge program fit in the employer's overall health care strategy? For example, how will the surcharge affect an employer who wishes to be known as a family-friendly employer?
- **Overall cost-management strategy implications.** How does the spousal surcharge program fit in the overall management of health care costs? What other cost-management initiatives will the employer wish to implement?
- **Current plan design/contribution strategy.** Will an employer's plan design and contribution strategy affect the impact of the spousal surcharge plan? In general, employers with richer benefits/lower contribution requirements will have more "non-fair-share" spouses on their plan (those that are eligible for other employer's plans but have chosen the richer employer's benefit plan).
- **Effect on children's coverage.** Will the employer also extend the surcharge to qualifying dependent children who are also eligible for other employer coverage? Will the employer attempt to mandate which parent is eligible to cover their children on which plan?
- **Legal implications.** Will the spousal surcharge program create problems with various state/federal marital status nondiscrimination laws?

## AN EXAMPLE: THE E.W. SCRIPPS COMPANY

The E.W. Scripps Company (Scripps), a leading diverse media concern with interests in newspaper publishing, broadcast television, national television networks, interactive media and television retailing, implemented a spousal surcharge program in 2002 with successful results.

According to Kevin Donoghue, benefits manager at Scripps, the surcharge began in 2002 with an introductory surcharge amount of $50 per month. Employees electing spousal coverage in 2002 were asked to verify other coverage availability to be eligible for a waiver from the spousal surcharge requirement. The surcharge was increased in 2003 to $100 per month and has remained in effect since that time.

Initially, of the approximately 2,800 employees with spousal coverage potential, 600 of those employees were identified that potentially met the requirements to have the spousal surcharge implemented. Upon implementation of the spousal surcharge program, 200 of those employees changed coverage elections to avoid the surcharge (either by dropping the spousal coverage or by enrolling the spouse in the spouse's plan).

The remaining 400 employees were charged the applicable surcharge amount. By implementing a spousal surcharge program, Scripps was able to positively affect its financial liabilities for about 20% of its population eligible for spouse coverage.

## SUMMARY

In conclusion, a spousal surcharge program is one potential tool for employers to help manage the cost of providing health care coverage for the dependents of employees.

A growing number of employers have adopted surcharge plans where employees are charged an additional premium contribution if they enroll their spouses on a company's health plan and that spouse is eligible for health care coverage through another employer but has chosen not to enroll in that other employer's plan. A greater number of employers are considering adopting such plans for the future.

Employers that have market-average or below-market benefit plan designs and contribution cost structures will likely see fewer economic benefits by implementing spousal surcharge programs, as most dependents in market-average or below-market plans will likely not choose coverage as a spouse when their own employer's plan may be richer or cost less. However, employers in traditionally more benefit competitive industries, or employers who traditionally charge little to nothing for health care will experience greater economic incentives from implementing a spousal surcharge requirement. The presence of the spousal surcharge requirement allows for attraction/retention-oriented employers to still offer higher-than-market benefits and require that other employers pay their "fair share" for working spouses.

*The author would like to thank his colleagues, John Sinclair, CEBS, and Cyndi Gibson, for their assistance with this article, also the E.W. Scripps Company for allowing its specific example to be used.*

*Employers that have market-average or below-market benefit plan designs and contribution cost structures will likely see fewer economic benefits by implementing spousal surcharge programs, as most dependents in market-average or below-market plans will likely not choose coverage as a spouse when their own employer's plan may be richer or cost less.*

### Endnotes

1. *Mercer Human Resource Consulting National Survey of Employer-Sponsored Health Plans, 2003.*
2. Various resources reviewed included: Hewitt and Associates, *Future Strategy and Direction*, 2003 and 2004; Washington Business Group On Health (now National Business Group on Health), Quick Survey, *Spousal Surcharge/Spouse Mandate to Own Plan, 2002.* In addition, various news articles and actual employer documents were reviewed.