

Risk Ruminations



By Carlton Harker, FSA, MAAA

The need for *actuary-provided certifications to self-funded health care plan sponsors* has increased in recent years. The best interest of such plan sponsors will be served if such certifications are offered on a *work-product basis* and through either of the two major *contracted vendors* (i.e., (a) TPA or (b) consultant/risk manager/producer), acting as either a *provider or intermediary*. Of interest to the reader should be a clear distinction of *what is or is not an actuarial certification*.

This new and improved approach appears to be *agreeable to most plan sponsors*; meets the highest *professional standards of the actuary* and related professionals; expresses both the letter and spirit of the FTC-regulated *trade and commerce laws*; and employs the *Internet as a useful tool*.

The ideas expressed herein do run a bit counter to several current industry practices as respects to (a) *use of billable time* as a basis of actuarial charges, (b) *restructuring of most RFPs* created by plan sponsors.

Suggested working changes to the vendor-plan sponsor engagement agreements needed to accomplish such subcontracted actuarial services are provided.

The suggestions made herein appear to be useful to the next generation of changes to health care plans that are possible (if not likely) following the 2006 and 2008 national elections.

An enumeration of the more commonly-offered certifications are as follows:

1. Annual Actuarial Report

Such report, on behalf of the upcoming plan year, shows the following:

- Recommended funding for claims
- COBRA premiums
- Estimated costs for reserve maintenance, fixed costs, etc.

Such Report may be divided as follows:

- Benefits (medical, Rx, dental, e.g.)
- Options (indemnity, PPO, EPO, e.g.)
- Risk Pool (actives, retirees, e.g.)

2. Claim Reserve Benefits

Such claim reserves may be divided as follows:

- Purpose (tax, regulatory, statutory, e.g.)
- Format (AICPA FASB 3 or SOP 92-6, e.g.)

3. Claim Reserve Benefit Certifications

Special statutory and professional requirements must be met.

4. Before or Post-termination Benefits Liabilities

Such liabilities are most conveniently divided into three groups by AICPA designation:

- FASB 106 (retired life-private plans)
- GASB 43 and GASB 45 (retired life-government entity plans)
- FASB 112 (post-termination deferred compensation).

5. State-Mandated Actuarial Certifications

Such certifications are typically of two types:

- Government Entity Plans (Florida, Iowa, Ohio, N.Y., etc.)
- MEWAs.

6. Monte Carlo Simulations

These simulations are particularly useful in measuring the financial impact (with confidence interval estimates) of administering the plan with varying levels of stop-loss.

7. HSA Feasibility Analysis

This analysis re-trifurcates the total plan cost (shared by the participant, plan sponsor and stop-loss carrier) needed to comply with the HSA regulations so as to determine the plan sponsor's HSA contribution needed in order to maintain such sponsor's cost parity.

8. Medicare Part D Certifications

Such certifications may be of two types:

- Demonstrating that the plan-provided Rx benefits are (or are not) at parity with those Rx benefits of Medicare Part D.
- Demonstrate by an actuarial model that the plan sponsor should or should not elect the subsidy if financial parity is its goal.

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■ Actuarial Certifications to Self-Funded Health Care Plan Sponsors *(continued from page 7)*

9. **Benefit Content Comparisons**

This analysis places actuarially-determined economic values on several plan benefits providing thereby an index of their relative values.

These nine certifications will be made by the three professional classifications of actuaries as follows:

Certification	Actuarial Classifications
1. Annual Actuarial Report	Health
2. Claim Reserves-Benefits	Health
3. Claim Reserves- Workers' Compensation	Casualty
4. Retiree and Post employment	Pension
5. All other (5-9)	Health

Self-Funded Health Care Plan Sponsors

Such plans may be single-payer or multiple-payer (MEWA, e.g.) with all types of non-tax-qualified deferred benefits (including LTD). Workers' compensation, while unique in many ways, may be deemed a self-funded plan for actuarial purposes.

Increase in Recent Years

Initially, self-funded health plans were totally free of requisite actuarial services.

- Shortly after their initial growth in popularity, state-certification of government plans was required followed shortly by the MEWA amendment to ERISA
- The AICPA reversed itself by holding FASB 5 to apply to self-funded plan sponsors thereby requiring actuarially certified claim reserves. The AICPA also promulgated FASB 106 requiring active life reserves for retiree health benefits.
- COBRA premiums being actuarially determined came on the scene in 1986.
- A spate of recent developments (HSA, Medicare Part D, GASB 43 and 45) all involve the actuary in some definite manner.

It appears reasonable to assume that more changes to self-funded plans will bring added need for actuarial services.

Work-Product Basis

The characteristics of an actuarial certification that is provided as a work-product is as follows:

1. Format of work-product is pre-determined (output).
2. There is an explicit enumeration of requisite data or documents (input).

3. Specific and well-communicated terms and conditions as to price, deliveries etc. are shown.
4. Billable time is not a pricing factor.
5. Guaranteed service and quality subject to terms and qualifications are essential.
6. Actuary may be under specific engagement to an actuary-approved vendor (not the ultimate user).

Contracted Vendors

A contracted vendor may be either of the following:

- TPA
- Consultant/risk manager (with an express contract)
- Producer (with either an express or implied contract).

Provider or Intermediary

As may be agreed upon by the Plan Sponsor, Vendor and Actuary, the Vendor may assume the role of either:

Intermediary

The Vendor merely arranges for the Actuary to be directly engaged by the Plan Sponsor.

The Actuary's billings and E & O protection go to the Plan Sponsor.

Producer

The Vendor engages the Actuary directly and the Actuary's billing and E & O protection go to the Vendor. Because of the work-product nature of the certification, this relationship does not lessen the Actuary's independence nor create any professional conflict of interest.

The typical and preferred arrangement should be as follows:

Actuary Designation	Preferred Role of Vendor
Health	Provider
Pension (Retired Life Reserves)	Intermediary
Casualty (Workers' Compensation)	Intermediary

What Is or Is Not An Actuarial Certification

An actuarial certification has these two characteristics:

- Is under the signature of a member of the American Academy of Actuaries.

- Measures quantitatively the future, using the experience of the past in some needful and meaningful manner.

The actuary is free to execute non-actuarial certifications but such will not be an actuarial certification. Further, the actuary is free to practice non-actuarial skills in measuring the future or analyzing the past (statistics, economics, e.g.).

Agreeable to Most Plan Sponsors

Except for the larger plan sponsors, the majority of such prefer the advantages of the actuarial certifications being provided through the vendor-intermediary on a work-product basis.

- The price and terms are set with there being *no surprises* so often the case with billable-time based certifications.
- The interaction between the vendor and the actuary is a positive to the plan sponsor.
- Where possible, *one-stop shopping* is a positive to plan sponsors.
- The quality-assurance offered by the actuary as respects to the work-product is a strong positive to the plan sponsor.

Professional Standards of the Actuary

So long as (a) the actuary projects the future using credible past experience; (b) the actuary certifies to the work performed under *his or her label*; (c) the certification fully and fairly expresses the actuary's basis, logic, experience data, documentation, etc., as well as the party engaging such actuary; and (d) the actuary so certifying is fully qualified to make such certification and (e) all relevant actuarial principles and practices are otherwise followed, the letter and spirit of the actuary's professional canons of ethics are met.

Trade and Commerce Laws

Such laws, expressed primarily in the (a) Sherman Act (b) Clayton Act, (c) Robinson-Patman Act and (d) FTC Unfair Trade Practices Act, are fully met both in letter and spirit in that the entire thrust of unbundled (or work-product) actuarial certifications is inherently pro-competitive and transparent in nature.

Internet as a Useful Tool

An actuary-maintained Web-Site is most helpful to the success of work-product certifications because it:

- Promotes transparency
- Simplifies responses to the RFP

- Is efficient and cost-effective
- Permits interaction between the actuary, the vendor, the plan sponsor and the plan itself.

It would be expected that the actuary would place on its Web Site for each definable actuarial certification the following information.

- Description of Certification
- Sample Work-Product
- Statement of Requisite Data/Documentation
- Statement of Fees, Terms and Conditions.

Use of Billable Time

The essence of work-product certifications is that *billable time* is not used as a basis of charges. This is not to imply that billable time is not the most appropriate basis of charges for many other actuarial services; rather, the unique features of the nine certifications under discussion make fixed charges most appropriate.

Restructuring of Most RFPs

Some resistance to the rapid and enthusiastic acceptance of the new concept of an actuarial work-product for certain actuarial certifications is expected for two reasons:

- **Expected Inertia With Plan Sponsor**
Plan sponsors and those who craft the RFPs will have to be educated as to the alleged virtues of the new approach.
- **Opposition from the Establishment**
Those large actuarial firms offering both certification and consulting/risk management services, both on a billable time basis, will understandably object to the proposed new approach for many reasons not discussed herein.

Suggested Wording Changes

If requested by the [Plan Sponsor] [Employer], the Vendor [Consultant, Risk Manager, Plan Supervisor, Claim Administrator] will either provide or make available any one of a menu of nine actuarial certifications, set forth in Appendix A. Such Certifying Actuary is in all respects independent and the certification is work-product in nature and priced according to a published fee basis (not billable-time based).

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The Editor.

■ Actuarial Certifications to Self-Funded Health Care Plan Sponsors *(continued from page 19)*

Appendix A

The menu of actuarial certifications are as follows:

1. **Annual Actuarial Report**
(Recommended funding, COBRA premiums, etc.)
2. **Claim Reserves-Benefits**
(Standard or AICPA SOP 92-6 format)
3. **Claim Reserves-Workers' Compensation (Self-Insured)**
4. **Retiree Health Active Life Reserves**
FASB or GASB 43/45)
5. **State-Mandated Actuarial Certifications**
6. **Monte Carlo Simulations**
7. **HSA Feasibility Analyses**
8. **Medicare Part D Certifications**
9. **Benefit Content Comparisons**

The designated actuaries so certifying are as follows:

Health Actuary - Normally Arranged and Engaged by the Vendor-Certifies Menu Items 1, 2, 5-9

In Process

Casualty Actuary - Normally Arranged by Vendor and Engaged by Plan Sponsor-Certifies Menu Item 3

In Process

Pension Actuary - Normally Arranged by Vendor and Engaged by Plan Sponsor-Certifies Menu Item 4

In Process

Self-Funding Actuarial Services, Inc. maintains a Web Site www.sfacertifications.com for the sole purpose of providing elaborate and description information with respect to the certification and the actuary.

Certification-Related

Sample work-product
Required data, documentation, etc.
Prices and fees.

Actuary-Related

Due diligence items including but not limited to B & O coverage details
Other descriptive materials.

Carlton Harker, FSA, MAAA is a well known and respected member of the self-funding community and has been an active participant in the Self-Insurance Institute of America's educational programs for many years. In addition to authoring numerous books on a diversity of subjects related to self-funded health care, Carlton has appeared as a speaker and panel member at various industry educational functions. Harker has appeared as an expert witness in many hearings and trials. Mr. Harker is the Principal of Self-Funding Actuarial Services, 8025 North Point Blvd., Suite 207 W, Winston-Salem, NC 27106. (tel) 336-759-2035, (fax) (336)892-0392, or via e-mail at harker2@earthlink.net He maintains a web site at www.self-fundhealth.com

