Research

Menu Labeling Red Tape

SAM BATKINS | AUGUST 28, 2013

Later this month, the administration could release a final rule mandating calorie labels for restaurants and grocery stores. Original estimates found more than 280 million establishments would have to labor for more than 14.1 million hours annually to complete the menu labeling regulation. To put this in perspective, that's almost twice the entire paperwork burden of the beleaguered Department of Veterans Affairs.

Beyond these topline burdens, there are of course real consequences for businesses trying to comply with the law. For example, the Food and Drug Administration estimates the cost to determine calorie information for a single item is $275, with initial high-end costs per establishment of $44,000, and $5,000 in recurring costs.

What do these costs mean? Restaurants and grocery stores must ensure calorie declarations: 1) are in the same color as the associated menu item, 2) have the same contrasting background as the menu item, and 3) be no smaller than the type size for the menu item. In addition to roughly a dozen other specific requirements for labeling, establishments must ensure salad dressings are labeled, but not salt, pepper, and other "general use" condiments. For small establishments, complying with the regulation won't be easy, and it won't be cheap.

The consequences for mislabeling are severe for restaurants and grocery stores. "Misbranding" under current law is punishable by up to one year in prison and a $1,000 fine per violation. Minus the prison time, $1,000 might not seem severe, but a chain with 20 locations that unwittingly sells 50 misbranded items faces $1 million a day in civil penalties. That's a lot of red tape and even more money spent complying with the "Affordable" Care Act.