

EMPLOYERS' COSTS UNDER THE AFFORDABLE CARE ACT

Thomas S. Dean, Esq. ¹

For years, many employers have shouldered a significant part of the cost of their employees' healthcare. The inflation rate for insurance premiums is outpacing the consumer price index. It has been booming growing so fast that, even as they pass more and more insurance expense on to their employees, employers' costs have grown significantly, also.

One local employer told me that his downtown Albuquerque rent is his second-biggest expense, behind his company's share of employee health insurance. The Affordable Care Act of 2010 (the "ACA"), which created Obamacare, was intended to address that problem. Instead, it may have made it worse.

This series of articles is reviewing the exploding regulatory cost of healthcare. The ACA greatly increased the bureaucracy overseeing health care issues. Every player in the health care market is working under new burdens – hospital, doctors, and insurance companies. Now, even employers are handling the increased cost of a new set of duties.

One of the biggest changes of the ACA was the "individual mandate" which requires that everyone must have health coverage, or pay a penalty. The mandate was made possible by providing subsidies to low-paid workers. When applying for insurance, low-paid workers can claim a discount

The government needs to verify the information provided to it, and employers are in the best position to confirm the accuracy of the information that their employees provided. For this reason, in July, the government began sending out notices to employers requiring this confirmation. The Federal Health Insurance Marketplace / Exchange made a mass mailing to all the companies listed as employers by individuals whose health insurance premiums are subsidized by the ACA.

In an ideal world, of course, all those employees would have provided accurate information. This does not appear to be the case, however. It appears that many employees who received subsidies did not accurately report their eligibility. That is, many may have said their employer did not offer insurance when in fact it was being offered. This leaves the employers open to paying a penalty for failing to comply with the ACA.

For employers who received a notice, and who also offered appropriate health insurance, it is important to reply. The notices are only going to employers who appear to have violated the ACA requirements of offer insurance to employees. Accordingly, failure to reply is almost certain to result in a penalty being assessed.

Of course, replying is going to impose some costs, for the time spent by staff. Not only will someone have to copy the information for any employee who improperly claimed a subsidy, and fill in the responsive forms for an appeal. There will also be time required to complete the

¹ Thomas S. Dean is an attorney in the Miller Stratvert P.A. Albuquerque office

appeal itself. This is just one more hidden cost of healthcare reform, contributing to the upward spiral of healthcare costs.