



This Publication Brought To You Courtesy Of:



STEVEN F. CARTER
CERTIFIED FINANCIAL PLANNER™, Practitioner

4225 Executive Square
Suite 1030
La Jolla, CA 92037-1486
Phone: (858) 678-0579
Fax: (858) 546-0792
E-mail: steve.carter@lpl.com
www.stevencarterfinancial.com

CLIENT BULLETIN

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➤ *Healthcare Imbroglia*

The Affordable Healthcare Act (aka Obamacare) is top of the news following the recent three-day Supreme Court session regarding the constitutionality of the law. The court won't send down a ruling until the end of June so you will be hearing a lot about the topic in the press over the next few months. As result, it is important to have a factual lens through which to view the proceedings - as Daniel Moynihan once said: "we are all fully entitled to our own opinions, but we aren't entitled to our own facts."

➤ *What the Law Would Do*

The Affordable Healthcare Act contains five major elements:

1. An **employer mandate** requiring businesses with 50 or more employees to provide healthcare coverage for their employees or pay a penalty (also called play or pay).
2. An **individual mandate** that requires everyone in America to have health insurance. If you don't have it from your employer or Medicare then you must go out and purchase it on your own. If you don't, you will be subject to a penalty.
3. A provision that a health insurance company **cannot deny coverage** to anyone because of pre-existing health conditions.
4. It directs the states to set up a **health exchange** through which individuals can get information and purchase health insurance.
5. It provides **government subsidies** for purchasing health insurance. Families earning less than \$88,000 get a subsidy and families earning under \$30,000 get it for free.

➤ *What is the main legal issue?*

A number of states and individuals have challenged the constitutionality of element #2 above - the requirement that everyone must buy health insurance. They claim that Congress does not have the authority to force private citizens to buy insurance – that is a decision we should each be able to make for ourselves. Congress passed this individual mandate under the Commerce Clause of the Constitution which allows Congress to regulate activities that cross state lines and affect the country as a whole.

➤ ***What's The Cost?***

One concern about the Act is its' negative effect on the budget deficit situation which is already headed into crisis territory. Based on the government's own projections, it will cost approximately \$1 trillion to pay for the Act. This \$1 trillion in additional costs will be paid for equally from two sources:

- Approximately \$500 billion of additional revenue to the government from a new tax (effective 1/1/13) of 3.8% on interest, dividends and other investment income imposed on families with incomes over \$250,000.
- Reducing Medicare outlays by forcing doctors, hospitals and drug companies to take less money from the government for their services and products under the Medicare program.

➤ ***What Would You Do?***

Trying to predict the Supreme Court's decision in June is fruitless and the politics surrounding the law are as divisive as any in decades. It is more important to look at the practicality of the law if it is implemented as it stands now – what I would call “Stage 2” thinking. The best way to do this is to put yourself in the shoes of various groups of people who are affected by the law. A few examples:

- Put yourself in the shoes of a doctor who sees Medicare patients. All of a sudden you will be paid significantly less by the Medicare program to see those patients. What would you do? Most likely see fewer or no patients who are on Medicare.
- If you were the owner of a business with 50 or more employees, the law requires you to provide health insurance for your employees or pay a fine of \$2,000 per employee. As a business owner you would compare the cost of the fine to the cost of health insurance and opt to pay the fine if it is less than the cost of providing health insurance for your employees.
- If you were an employee of this company that dropped its health coverage you would now be required to get health insurance coverage on your own or pay a fine. Once again you would choose to pay the fine (\$750/yr. for an individual) if it is cheaper than the cost to buy health insurance.
- Also as an individual, you know that you cannot be denied health insurance coverage when you apply for it even if you have a pre-existing health condition. What would you do? Not buy health insurance until you get sick and need it.
- Now put yourself in the position of someone running a health insurance company. You cannot deny coverage to anyone and as a result you find your insured pool changing dramatically for the worse as a much greater percentage of your customers have health issues. You will be out of business quickly under that scenario so what would you do? Raise your premiums to account for the fact that you can't underwrite your customers any more.

➤ ***Bottom Line***

Our current healthcare system needs to be revised but the current law, if it stands, faces some significant reality checks as it is implemented.

**The information contained in this newsletter is of a general nature and should not be acted upon in your specific situation without further details and/or professional assistance.*