

The ACA's Impact on Employer-Provided Health Benefits

Introduction During a recent speech defending the Affordable Care Act (ACA), President Obama said the law has had no impact on the affordability of employer-provided health care benefits “except to make it a better value.”ⁱ As the President put it, “if your premium is going up, it’s not because of Obamacare. It’s because of your employer or your insurer — even though sometimes they try to blame Obamacare for why the rates go up. It’s not because of any policy of the Affordable Care Act that the rates are going up.”ⁱⁱ In case anyone missed the point, the President elaborated: “Now, some people may say, well, I’ve seen my copays go up, or my networks have changed. But these are decisions that are made by your employers. It’s not because of Obamacare. They’re not determined by the Affordable Care Act.”ⁱⁱⁱ

The speech by the President, and the repeated argument that employer-sponsored health care benefits are not affected by the ACA, came in response to the recent jump in the cost of ACA exchange plans and the public’s increasing concern over the affordability of health care. On October 24, 2016, the Department of Health and Human Services announced that premiums on the Affordable Care Act exchanges would increase by an average of 25 percent in 2017,^{iv} while the cost of employer-sponsored health benefits are expected to rise by 6.5 percent in 2017,^v over four times the rate of inflation.^{vi} In fact, such concern appears to have been a factor in the election, as voters were unhappy with the ACA by a margin of 3 to 1.^{vii}

President Obama’s concern over increasing health care costs is admirable, but his effort to blame employers [and insurers] for rising health care premiums is as disingenuous as his claim when the ACA was being debated that “If you like the plan you have, you can keep it. If you like the doctor you have, you can keep your doctor, too. The only change you’ll see are falling costs as our reforms take hold.”^{viii} The President’s claim that the ACA has not increased the cost of employer-provided health care benefits is simply untrue.

Has the ACA Affected Employer Health Care Costs? President Obama is not the only one to claim the ACA has not affected the cost of employer health care plans. Jonathan Gruber, MIT professor and a key architect of the law, recently made a similar argument when he said: “Obamacare's not imploding. ... And most importantly, it doesn't affect the 150 million Americans who get employer insurance, who have actually seen their premiums fall dramatically, relative to what was expected before Obamacare.”^{ix}

Yet contrary to these claims, there is clear evidence the ACA has both directly and indirectly increased the cost of employer health care benefits. In 2014, an American Health Policy Institute study found that over the next decade the cost of the ACA to large U.S. employers (10,000 or more employees) will be \$4,800 to \$5,900 per employee, and over the same time period, the total cost of the ACA to all large U.S. employers will be \$151 billion to \$186 billion.^x In 2012, an Urban Institute study estimated the ACA would increase large employer (1,000 or more employees) health care costs by 4.3 percent, and mid-sized employers (101 to 1,000 employees) costs by 9.5

percent.^{xi} More recently, a survey of employers by the International Foundation of Employee Benefit Plans (IFEBP) found the ACA increased actual employer health care costs by an average of 5.8 percent.^{xii} The IFEBP survey identified over 20 different ways the ACA increases employer costs, including reporting, disclosure, and notification requirements, increasing fees, and increased communication resources spent interacting with employees regarding the law.

Furthermore, the regulatory burden the ACA imposes on businesses and individuals should not be underestimated. Since the ACA was enacted, 106 regulations implementing the law have been published. These regulations will cost the private-sector more than \$51 billion and require 173 million hours of paperwork in order to comply.^{xiii} Moreover, hundreds of guidance documents regarding the ACA have been published by various federal agencies since 2010. According to a recent American Action Forum study, the cost of each ACA regulation published so far has averaged \$426 million and required 1.6 million hours of paperwork.^{xiv}

These overarching cost estimates come from a number of ACA provisions that have a direct in indirect impact on employers and on the cost of their health plans. These provisions include, but are not limited to, the following:

Direct ACA Costs

Benefit mandates, including:

- Coverage for adult-children up to age 26 as dependents, break time for nursing mothers, offering affordable coverage to part-time and seasonal employees, the requirement for employers to cover 100 percent of a growing list of preventive care services, individual maximum out-of-pocket limits on family coverage, and the requirement to cover certain ACA essential health benefits despite the plain language of the law. Although these benefit mandates may be popular, they are not free.

Patient Centered Outcomes Research Institute fee:

- For self-insured employers the PCORI fee has increased from \$1 per covered life in 2013, to \$2.17 per covered life in 2016. CBO estimates that health plans' payments will total about \$400 million in fiscal year 2016.

Transitional Reinsurance Fee:

- The Department of Health and Human Services set the fee at \$63 per enrollee for plans operating in 2014, \$44 per enrollee for 2015, and \$27 for 2016.

General ACA implementation and administrative costs, including complicated IRS reporting requirements.

Indirect ACA Costs

New supply-chain taxes that are passed onto employers, including

- Tax on medical device manufacturers that began in 2014 but was suspended for 2016 and 2017 (over \$2 billion per year);
- An annual fee on the manufacturers and importers of brand-name drugs (almost \$3 billion per year).

Health insurer tax for fully-insured plans that are passed onto employers (\$11 billion in 2016). Although the tax was suspended in 2017, the JCT estimates the tax will increase premiums for the affected plans by 2.0 percent to 2.5 percent.

Risk-Adjustment Assessment applies to small employers who are fully-insured;

- The assessment is \$1 per enrollee per year, and CMS estimates it will cost about \$20 million in 2016.

Increased cost-shifting from government health programs.^{xv}

According to the Centers for Medicare & Medicaid Services, employer-sponsored health benefits will cost \$975.6 billion in 2016,^{xvi} or \$5,697 per covered life. Utilizing the research cited above, these direct and indirect ACA provisions likely increased the cost of employer-sponsored health benefits by 5.8 percent in 2016. This means the ACA likely cost employers \$56.6 billion in 2016, or \$330 per covered life.^{xvii}

Ways the ACA May Be Helping to Lower Costs The ACA does not just have a one-way impact on employer health costs. In addition to the new direct and indirect costs outlined above, the ACA may also be helping to reduce employer costs, by introducing a range of payment and delivery system changes designed to slow health care cost growth. A recent report from President Obama's Council of Economic Advisors found "[t]he ACA is contributing to the recent slow growth in health care prices and spending and is improving quality of care" by "reducing hospital readmission rates and increasing provider participation in payment models designed to promote high-quality, integrated care."^{xviii} One program to cut infections, encompassing only 333 hospitals, saved more than \$9 billion.^{xix} Moreover, recent research suggests that the ACA's reforms to Medicare may have "spillover effects" that reduce costs and improve quality system-wide.^{xx} The direct effect of ACA provisions that reduce Medicare overpayments to private insurers and medical providers has been to reduce health care price inflation by an estimated 0.2 percent per year since 2010. Accounting for the "spillover effects" discussed above raises this estimate to 0.5 percent per year, which represents a substantial fraction of the recent slowdown in medical inflation.

Conclusion It is clear why President Obama and his allies want to make the case that the ACA has no impact on employer decisions regarding their health plans. Yet many studies show quite definitively that the ACA is indeed having an impact on the cost of employer plans, both positively and negatively. The ACA was a far-reaching law with extensive reach and implications. When employers make decisions about their health care plans, they are of course taking the ACA into account when they make their decisions. President Obama has understandable political reasons for saying that these decisions are "not determined by the Affordable Care Act," but the facts clearly show otherwise.

Endnotes

ⁱ President Obama, Remarks by the President on the Affordable Care Act, The White House, Office of the Press Secretary, October 20, 2106.

ⁱⁱ *Id.*

ⁱⁱⁱ *Id.*

^{iv} Health Plan Choice and Premiums in the 2017 Health Insurance Marketplace. U.S. Department of Health & Human Services. https://aspe.hhs.gov/pdf-report/health-plan-choice-and-premiums-2017-health-insurance-marketplace?mc_cid=adf67a17e3&mc_eid=ec72fc7d12.

^v PwC Health Research Institute, “Behind the Numbers 2017,” available at: <http://www.pwc.com/us/en/health-industries/health-research-institute/behind-the-numbers.html>.

^{vi} 2016 Employer Health Benefits Survey. The Kaiser Family Foundation. September 14, 2016. <http://kff.org/health-costs/report/2016-employer-health-benefits-survey/>.

^{vii} NBC News, “Exit Poll Results: Large Share of Voters Feel Obamacare Went Too Far,” November 8, 2016, available at: http://www.nbcnews.com/card/nbc-news-exit-poll-results-large-share-voters-feel-obamacare-n680451?cid=sm_tw.

^{viii} President Obama, “Weekly Address: President Obama Outlines Goals for Health Care Reform,” June 5, 2009, available at: <https://www.whitehouse.gov/the-press-office/weekly-address-president-obama-outlines-goals-health-care-reform>.

^{ix} RealClearPolitics, “Obamacare Architect Jonathan Gruber: “Obamacare Is Not Imploding,” “Working As Designed,” October 26, 2016, full transcript via CNN, available at: http://www.realclearpolitics.com/video/2016/10/26/obama_architect_jonathan_gruber_obamacare_is_not_imploding_working_as_designed.html.

^x Tevi D. Troy and D. Mark Wilson, “The Cost of the Affordable Care Act to Large Employers,” American Health Policy Institute, April 2014, available at: http://www.americanhealthpolicy.org/Content/documents/resources/2014_ACA_Cost_Study.pdf.

^{xi} Linda J. Blumberg, et.al., “Implications of the Affordable Care Act for American Business,” Urban Institute, Health Policy Center, October 2012, available at: <http://www.urban.org/UploadedPDF/412675-Implications-of-the-Affordable-Care-Act-for-American-Business.pdf>.

^{xii} Neil Mrkvicka, et.al., “2016 Employer-Sponsored Health Care: ACA’s Impact,” International Foundation of Employee Benefit Plans, 2016, available at: <https://www.ifebp.org/pdf/aca-impact-survey-2016.pdf>.

^{xiii} Sam Batkins, “Week In Regulation,” American Action Forum, October 24, 2016

^{xiv} Tara O’Neill Hayes, “The Regulatory Burden of the Affordable Care Act,” American Action Forum, January 27, 2016.

^{xv} Although the economic research on cost-shifting is mixed, in a letter to Senator Evan Bayh, November 30, 2009, the Congressional Budget Office stated that “changes in cost shifting seems likely to be quite small” and “the total amount of cost shifting in the current health care system appears to be modest relative to the overall cost of health insurance.” On balance, the letter strongly suggests that CBO believes there will be some increase in cost shifting.

^{xvi} Centers for Medicare & Medicaid Services, National Health Expenditure Data, Projected, Table 17.

^{xvii} AHPI estimate using National Health Expenditure Data and International Foundation of Employee Benefit Plans survey data from “2016 Employer-Sponsored Health Care: ACA’s Impact.”

^{xviii} Council of Economic Advisors, Trends in Health Care Cost Growth and the Role of the Affordable Care Act, November 2013, available at http://www.whitehouse.gov/sites/default/files/docs/healthcostreport_final_noembargo_v2.pdf.

^{xix} David Cutler, The Health-care Law’s Success Story: Slowing Down Medical Costs, Washington Post, November 8, 2013, available at http://www.washingtonpost.com/opinions/the-health-care-laws-success-story-slowing-down-medical-costs/2013/11/08/e08cc52a-47c1-11e3-b6f8-3782ff6cb769_story.html.

^{xx} Council of Economic Advisors, Trends in Health Care Cost Growth and the Role of the Affordable Care Act, November 2013, available at http://www.whitehouse.gov/sites/default/files/docs/healthcostreport_final_noembargo_v2.pdf.