



LEGISLATIVE ALERT

January 28, 2014

Dear Representative:

On behalf of the AFL-CIO, I am writing to express our strong opposition to the Save American Workers Act (H.R. 2575) sponsored by Congressman Todd Young and the Forty Hours is Full Time Act (H.R. 2988) introduced by Representative Dan Lipinski.

Both of these bills would weaken the employer responsibility requirements of the Affordable Care Act (ACA) by increasing to 40 hours per week the threshold at which employers are required to either offer coverage or pay a penalty. Contrary to the intent of this legislation, economic data show that raising the threshold would cause more employers to reduce the hours of their workers, and it would result in millions of working families losing employment-based insurance coverage.

As the Ways and Means Committee examines these issues in a hearing this week, and as discussions continue, the House should instead seek to strengthen the employer responsibility requirements of the ACA by *lowering* the hours threshold, requiring employers to provide coverage for workers who work 20 hours a week or more, and by applying a pro rata shared responsibility penalty if workers with fewer than 20 hours are not offered coverage. This is the only way to protect groups of workers – such as low-wage employees, school staff, and adjunct professors – that will lose wages under the existing incentive to reduce hours.

Unfortunately, the ACA's employer responsibility requirements do not adequately sanction employers that drop coverage or decline to offer affordable, comprehensive coverage. The \$2,000 penalty for not offering coverage to a full-time employee pales in comparison to the average annual cost of single coverage, which was \$5,884 in 2013. The ACA's extension of Medicaid eligibility to the uninsured will tempt low road employers to move lower-income employees into the program, since the law has no penalty to discourage employers from shifting the responsibility for covering these workers. In the construction industry, where the vast majority of firms have fewer than 50 employees, there is no penalty for companies that fail to provide coverage, creating a competitive disadvantage for employers that do provide coverage. A true "employer mandate" would address these issues and other weaknesses in the employer requirements.

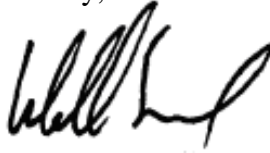
The bills introduced by Representatives Young and Lipinski would take the ACA in the opposite direction, compounding the problem they seek to solve. A December 2013 analysis by the UC Berkeley Center for Labor Research and Education found that the approach employed by this legislation – moving the threshold for coverage from 30 hours to 40 hours – would result in reduced work hours for *three times as many workers* (6.5 million) compared to the number vulnerable to a reduction of hours at the current threshold (2.3 million).

The researchers also found that the approach would “effectively eliminate” the employer shared responsibility requirement, because employers could cut workers to 39 hours or less with relatively little cost. Pointing to the Congressional Budget Office estimate that one million workers will lose job-based coverage as a result of the Administration’s one-year delay in implementing the current employer responsibility rules, the researchers warned that making the “employer requirement effectively non-binding on a permanent basis” would cause many more workers to lose employment-based coverage. The responsibility for covering this group would shift from employers to the federal government, incurring substantial new costs. Instead, the authors recommend that the incentive to reduce hours created by the 30-hour cliff could be addressed by applying the employer requirement to part-time workers and by pro rating the penalty for these workers.

The AFL-CIO endorses this kind of approach. We seek a full penalty for employers that fail to provide affordable, comprehensive coverage to workers averaging 20 hours a week or more. A pro-rated penalty should apply if adequate coverage is not provided to employees working less than 20 hours. This policy would eliminate the cliff imposed by the current 30-hour threshold, rather than simply shifting it higher and creating a new incentive for employers to reduce hours.

We look forward to working with you to strengthen the employer responsibility rules of the ACA, by extending coverage requirements to part-time workers and bolstering requirements related to the affordability and comprehensiveness of coverage. Achieving the coverage goals of the Affordable Care Act will depend upon maintaining employer responsibility for providing coverage to working families.

Sincerely,

A handwritten signature in black ink, appearing to read "William Samuel". The signature is fluid and cursive, with a large initial "W" and a long, sweeping tail.

William Samuel, Director
GOVERNMENT AFFAIRS DEPARTMENT