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Beware Anti-Retaliation Provisions of New Health Care Law

Employers now face a new legal threat from employees who are terminated, disciplined or otherwise subjected to an alteration in practically any term or condition of employment — a claim for retaliation in violation of the Affordable Care Act (ACA). In a less-publicized provision of the ACA, employers are prohibited from retaliating against employees who enroll in health care exchanges and claim a credit or cost-sharing reduction under the ACA or employees deemed to be "whistleblowers" with regard to employer ACA violations. Employee complaints may trigger an investigation by The Occupational Health and Safety Administration (OSHA) or court action in certain instances. OSHA is empowered to order reinstatement of employees, back pay or other relief to make the employee whole, as it deems appropriate. OSHA's Fact Sheet summarizing the new protections is available [here](#).

Employers considering layoffs, reductions in hours or other changes in employment terms should review these protections in more detail to develop strategies for minimizing the risk of such claims. Management personnel should be mindful of these protections when dealing directly with employees who raise concerns about ACA compliance or otherwise fall within a category protected by the law. ■

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