

Community colleges to cut hours of 1,300 to avoid paying benefits

BY ANGELA GONZALES
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The Maricopa Community Colleges are cutting 1,300 temporary workers back to less than 25 hours a week in an effort to avoid \$13 million in additional health insurance costs.

Starting next year, the Patient Protection and Affordable Care Act of 2010 will require employers to provide health benefits to employees who work more than 30 hours a week. This is leading employers such as the 10-college district to cut part-timers' hours.

While this portion of the Affordable Care Act will not become effective until next year, the federal government will look back a year to determine the total number of employees who need to be covered, said Tom Gariepy, spokesman for the Maricopa Community Colleges.

"We're recognizing this is going to have a serious effect on the lives of employees that are valuable to us and who we care about," he said.

The district isn't providing health benefits to these temporary employees, including 700 adjunct faculty members, but would be required to once Obamacare kicks in.

With only 1 percent of its budget coming from the state's General Fund, the community college system is operating on thin margins. The additional health care costs would require a massive reallocation of resources, Gariepy said.

Chris Mason, a shareholder with the Polsinelli law firm in Phoenix, said he is having this discussion with many of his corporate clients.

In general, he advises employers to examine what the law requires to avoid any mistakes that can lead to potential liability.

Employers that schedule workers for less than 29 hours a week need to be careful no one works overtime, which could trigger the 30-hour threshold, he said.

"That's a really big risk," Mason said. "Employers who make that kind of mistake could get dinged for not counting dozens or even hundreds of part-time people, and could end up paying thousands of dollars in penalties under the pay-or-play requirements."

John Balitis, director of Fennemore Craig PC in Phoenix, said the Maricopa Community Colleges' move is just the beginning.

But such a move is risky, Balitis said, because of anti-retaliation provisions that bar employers from taking action against workers.

"An argument can be made that manipulating hours in order to avoid the mandate is a form of preemptive retaliation, meaning a step taken by an employer at worker expense that is designed to avoid certain consequences under the act," Balitis said.

All this could have been avoided if the federal government had provided universal health coverage, said Sandra Durant, an assistant professor at the Phoenix School of Law.

"I think it's unwise and unfair to employees at a time when the economy is beginning to resuscitate," she said.

With less income, employees pay less taxes, which impacts the state's economy, she said.

"This can't be viewed simply in isolation," she said.



Balitis

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