

Medicare and Obamacare (the Affordable Care Act)



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Q

Dear Mr. Premack, We know Obamacare started in October and that the new insurance requirements are beginning. I hear and see lots of news and ads criticizing Obamacare and don't want to have to pay extra taxes or change my doctor. I feel my Medicare is enough, and that Washington should keep its nose out of my personal health care and leave my health issues between my doctor and me. Since Congress can't seem to kill this law, what actions do I have to take now under Medicare to comply with the law?
— N.S.

A

As a Medicare enrollee (who I'll assume is 65 or older), it is ironic that you want Washington to keep its nose out of your health care. You must realize that being covered by Medicare means you are part of the largest national health-care program run by the government. Washington has been deeply involved in health care for decades. Despite the news and ads, Obamacare (legally called the Affordable Care Act or ACA) has improved coverage under Medicare and does not require enrollees to pay extra taxes or change their doctor.

According to the Center for Medicare and Medicaid Services (CMS, the federal bureaucracy that manages Medicare), if you are covered by Medicare, Medicaid, Tricare or the Federal Employee Health Benefits plan, you do not need to be

concerned about the Health Insurance Marketplace established by the ACA. Whether you are enrolled in Original Medicare or a Medicare Advantage Plan, you can stay with your current plan under the ACA. You do not need to buy private health insurance and the October launch of the Health Insurance Marketplace has no effect on you.

As far as new taxes under the ACA, there are two issues. First, if an uninsured person fails to purchase health coverage, there will be a penalty due with their income taxes. This was ruled constitutional by the U.S. Supreme Court. The penalty is fairly small in the early years, and there are a number of exemptions. Those covered by Medicare are considered insured, and will never be exposed to this penalty.

Second, the ACA includes an increase in capital gain taxes. However, most people will not encounter this tax as it applies only to taxpayers who have taxable income above \$200,000 (for a single person) or above \$250,000 (for a married couple). Once exposed, the tax is equal to 3.8 percent of "net investment income."

The largest capital gain most people have is when they sell their home. Let's look at how extreme your situation would have to be before this tax applies to you. Assume you are married, age 70, with income above the \$250,000 amount that opens

you to the new tax. You sell your homestead (for which you had paid \$300,000) for \$900,000. After deducting your basis and your \$500,000 homestead exemption, the taxable gain on the house is \$100,000. You pay the new tax of 3.8 percent on that \$100,000 gain (\$3,800) which is less than half of a percent of the total \$900,000 sales price. Yes, it is a new tax, but one to which most people will never be exposed.

Medicare benefits have also been improved or expanded under the ACA. For example:

- Certain preventive services, like mammograms or colonoscopies, are covered without coinsurance or deductibles.

- The prescription drug "donut hole" will be closed by 2020, and in the meantime, the ACA grants a 50-percent discount on brand-name prescription drugs while an enrollee is in the donut hole.

- New Medicare enrollees get a no-cost "Welcome to Medicare" wellness visit with their doctor, and all Medicare enrollees receive a no-cost annual wellness visit with their doctor.

As part of the annual wellness visit, you should discuss your legal advance directives with your doctor. Ask how the doctor and hospital will react to your directives, and provide copies to your doctor. Avoid using forms supplied by your doctor because they are likely to be of questionable legal validity. The doctor or doctor's staff cannot legally assist you to prepare advance directives because doing so would be unauthorized practice of law. Your doctor is not a lawyer, but your elder law attorney stays current with those laws and should be your source for proper and legal advance directives.

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