



# LIUNA!

July 18, 2013

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President Barack Obama  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. President:

On behalf of the Laborers' International Union of North America (LIUNA), I am compelled to express our concerns over the destructive consequences of the Patient Protection and Affordable Care Act (PPACA) for multiemployer health and welfare funds. During the drafting and Congressional enactment of this law, LIUNA raised serious concerns that our Union had with aspects of the law and its impacts on the health insurance system that has served millions of hard working Americans and their families over the last forty years. Many of the objections we raised were dismissed out of hand or, we were assured, would be addressed later as the law was implemented.

Unfortunately, policymakers do not seem to appreciate these non-profit, labor-management trust funds that have been providing medical, hospitalization and other health benefits to our members, retirees, and their families for generations. Were it not for these funds, most of LIUNA's members and families would have lacked health care coverage because of the mobile work patterns in the building and construction industry. These benefits have been gained over the decades through self-help. The funds are simply pools of workers' money funded by collectively bargained contributions that are wage substitutes.

During the legislative process that led to the enactment of the law, it was clear that the unique nature of the multi-employer plans was poorly understood by the Congress and the Administration. We were assured that our plans would not be adversely affected by the law and that as the law was implemented the issues unique to our universe would be addressed.

As you are well aware, because of our concerns over the impact the PPACA would have on the members of our Union and their families, the Laborers were one of a few handful of unions that did not support enactment of the law. Now, we have watched as the implementation of the law has progressed, our fears have become reality. Instead of working to assure that these insurance pools can continue to provide health care for the workers they serve, administrative decisions have compounded the problem.

*Feel the Power*

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The recent announcement by the Department of Treasury that the Administration will provide an additional year before the ACA mandatory employer and insurer reporting requirements begin, along with a delay in the required “employer shared responsibility payments”, only makes this unfair treatment worse. It is bad enough that the employer mandate only applies to companies with more than 50 employees, which excludes most of the construction industry, but now larger “low road” employers are being given an extra year to continue their efforts to subvert the law.

The ACA imposes substantially higher costs on multi-employer funds and union members, while enabling non-union employers to continue escaping responsibility and shift their employees’ health insurance costs to the taxpayers. The law enables non-union contractors to avoid any cost for their employee health insurance, giving them a grossly unfair competitive edge. ACA does not require them to provide health insurance coverage for their employees. There is a “free rider penalty”, but even that small amount applies only to “large employers” and can be easily evaded by any employer.

The ACA encourages non-union contractors to send their employees to the new Health Exchanges for Government-subsidized health insurance. Underscoring the unfairness, the Administration is interpreting ACA as preventing union members with health and welfare fund coverage from receiving Government subsidies for that coverage, even if they meet all of the subsidy eligibility standards.

In other words, non-union contractors’ employees get Government-subsidized health insurance coverage, and union members get to pay for their own coverage through collectively bargained contributions to health and welfare funds. A complicated “two trust solution” has been devised to supposedly correct this subsidy problem, but it is absolutely unworkable. Moreover, it does not address the broader problem of ACA giving non-union contractors an unfair competitive advantage. Our unions are committed to seeing the playing field leveled between the union and non-union sectors of the construction industry.

Health and welfare funds’ costs are increasing because of various benefit mandates and regulatory requirements unnecessarily imposed on the funds. But even more outrageous is ACA’s taxes on funds. The so-called temporary reinsurance tax alone will cost every health and welfare fund \$63.00 per covered life for just 2014, for a fund covering 10,000 lives (members and dependents), the tax will be \$630,000.00.

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The proceeds of this tax will be used by the Government to subsidize insurance companies offering health plans in the Health Exchanges. In effect, ACA takes money from the pocket of each laborer covered by a health and welfare fund and gives it to for-profit insurance companies. The worker gets nothing in return. That is offensive and inexcusable.

At what point will responsible behavior be rewarded?

ACA's costs will inevitably require increases in collectively bargained contribution rates for health and welfare. This puts more pressure on the total wage package for members. In a competitive environment, higher labor costs generally means fewer jobs.

In short, for unionized construction workers, their employers, and their health and welfare funds, the ACA is proving to be a destructive program that was supposed to control health care costs as was promised. Approximately, 3 million laborers, retirees, and their families now face the very real prospect of losing their health benefits. This, I must remind you, was something that you promised would not happen.

We believe that there are opportunities that the Administration can take to help alleviate some of the impacts that the law is having on our health care plans. We hope that you will work with us to see that these common sense changes are implemented.

With kind regards, I am

Sincerely yours,

A handwritten signature in black ink that reads "Terry O'Sullivan". The signature is written in a cursive, flowing style.

TERRY O'SULLIVAN  
General President

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cc: Vice President Joe Biden  
Senate Majority Leader Harry Reid  
House Democratic Leader Nancy Pelosi