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# Divorce could be side effect of Obamacare's healthcare reform

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Photo: File Photo Associated Press

Monday, October 7, 2013 - Legally Speaking by Myra Fleischer

Myra Fleischer



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SAN DIEGO - October 8, 2013 - Many couples that would like to get divorced stay together because they simply cannot afford to live on their own. Frequently this decision is driven by the cost of healthcare benefits.

Could successful implementation of the Affordable Care Act (ACA) remove this barrier to divorce for affected couples, making an increase in divorce an unintended side effect of healthcare reform? From a family law perspective it's not only possible but also likely.

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Losing health insurance following divorce is a significant problem for women. According to a [University of Michigan study in 2012](#), about 115,000 women lose their health insurance every year after getting divorced. Many do not hold employment outside the home, or work for employers who do not provide insurance. Even when eligible for COBRA health benefits under their ex-spouse's plan, some women can no longer afford premiums on their own.

- X The study found that one-quarter of divorced women who are dropped from their former husband's employer-based health insurance are still uninsured six months after getting divorced. Most of these women are in the moderate income group. Lower-income women qualify for Medicaid and other assistance programs. Wealthier women can afford their own insurance.

Healthcare insurance concerns can be especially acute in so-called "gray divorces" among couples over the age of 50. Individuals may still be too young to qualify for Medicare and unable to get private or employer based insurance. Couples in these circumstances will sometimes stay married until age 65 for precisely this reason.

Sometimes an individual cannot qualify for health insurance due to pre-existing conditions, and needs to remain in his or her current plan provided through their spouse's employer. In these types of cases, people will frequently seek a legal separation rather than a full-blown divorce so the affected spouse will retain their health insurance coverage. It works until the spouse carrying the insurance wants to get remarried, then the problem re-emerges anew.

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Many people delay the date of singlehood for insurance reasons in an effort to keep insurance coverage through the soon-to-be-ex as long as possible.

If the health exchanges established through the ACA are successful in providing post-divorce healthcare directly to individuals, it removes a

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significant barrier to divorce. Starting January 1, 2014, affected spouses can make the decision to move on independent of this concern without worrying about their health or the health of their children.

Health care costs often affect divorce settlements. Health insurance can have a bearing on the need for spousal support, with one spouse having to include enough support to cover these expenses. The Affordable Care Act could in theory potentially lower the amount of spousal support if health insurance becomes cheaper.

But like anything in divorce, count on it becoming complicated. Expect battles over whether the spouse paying alimony should be expected to provide "platinum" level coverage or only the most basic level "bronze" coverage. Another new factor: many people will be eligible for a government tax credit toward their insurance coverage. If this subsidy is available to an individual, the spouse paying support will argue it should lower their contribution through support payments.

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The Medicaid program will expand in many states under the Affordable Care Act. It could become available to some divorced people who wouldn't have qualified before, again presenting an argument for lowering support payments, which would have otherwise covered healthcare premiums.

Family law attorneys will need to pay attention to sliding-scale subsidies offered through the state marketplaces complicating the calculation of taxable income and support. Households qualify for subsidies if members make up to 400 percent of the federal poverty level, which is \$45,960 for a single person. The spouse paying alimony could become eligible for a subsidy since it is tax deductible. Since support is counted as taxable income by the recipient, it could make him or her ineligible for subsidies.

Whether or not the divorce rate spikes if the healthcare marketplace makes health insurance less of a concern (and I believe it will), without a doubt the Affordable Care Act will complicate the financial aspects of divorce, benefitting some and challenging others.

For those contemplating divorce in the near future with these questions looming, play it smart. Consult with a family law attorney aware of these issues, and consider bringing in a financial advisor who specializes in the financial impact of divorce. An investment in expert advice now could preserve your access to healthcare, ensure fairness and save you money in the long term.

Myra Chack Fleischer serves as Lead Counsel for Fleischer & Ravreby, a family law firm with a focus on divorce, property, custody and support, settlement agreements, mediation, asset division and family law appeals. Read more Legally Speaking in Communities at Washington Times. Follow Myra Fleischer on Twitter @LawyerMyra.

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**Will history decide Ted Cruz was right, or wrong, in his predictions for a post Obamacare America?**

- Ted Cruz is right
- Ted Cruz is wrong
- 50 / 50 - Not 100% right or wrong

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Bhig Bhad Wolf • 4 hours ago

My spouse and I discussed divorce as soon as we saw the Obamacare rates. We just CAN NOT afford them, and we have a child that previously had a wonderful insurance plan that no longer exists thanks to Obamacare, and he needs to be covered too. Together we make too much, and now we can't afford this "affordable" health care AT ALL, but "single" we would be able to scrape by. Thanks for ruining the country with lies and unconstitutional laws Obama!

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Nicole • 15 days ago

My husband and I divorced years ago for this reason. He owns a small business and we couldn't afford to stay married. We still live as husband and wife, and it works fine for us. If we were still married, Obamacare would probably force our hand.

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TRonJ > Nicole • 15 days ago

Why not stay married and simply file "single" on your taxes.

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