

May we demand applicants pay for medical exams?

Q. Our company requires applicants for certain classes of jobs to have medical examinations as a condition of employment. Can we require the potential employee to pay the costs of the medical examinations?

A. No, not if you have 25 or more employees. North Carolina has addressed this by statute. N.C.G.S. §14-357.1 specifically provides: "It shall be unlawful for any employer, as defined in subsection (b) of this section, to require any applicant for employment, as defined in subsection (c), to pay the cost of a medical examination or the cost of furnishing any records required by the employer as a condition of the initial act of hiring." Furthermore, each violation could cost the employer as much as \$100.

No statute or case law covers employers with fewer than 25 employees. Presumably, a company and an employee may enter into a contract requiring the employee to pay medical examination costs.

The ADA covers employers with 15 or more employees. Under the ADA, employers may require medical examinations only after they have made a conditional job offer. The ADA does not prohibit employers from requiring employees to pay for medical examinations.