



CONGRESSIONAL BUDGET OFFICE  
U.S. Congress  
Washington, DC 20515

June 15, 2006

Honorable Charles B. Rangel  
Ranking Democrat  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman:

At the request of your staff, the Congressional Budget Office has reviewed a draft version (labeled WMSUBST\_001) of H.R. 4157, the Health Information Technology Promotion Act of 2006. Although we have not completed a detailed estimate, we have concluded that enacting that version of H.R. 4157 would increase direct spending and reduce revenues over the 2007-2011 and 2007-2016 periods. CBO will prepare a formal cost estimate for the bill if it is ordered reported by the committee.

### **Direct Spending**

The increase in direct spending would result from provisions that would modify the Social Security Act to establish “safe harbors” for donations of health information technology that might otherwise be subject to civil monetary penalties, criminal penalties, or sanctions for violating the prohibitions on certain physician referrals.

The extent to which such donations will be permitted under current law has not yet been fully determined. Pursuant to Executive Order 13335, the Secretary of Health and Human Services (HHS) established the Office of the National Coordinator of Health Information Technology to support the adoption of health information technology. In conjunction with that effort, the HHS Office of the Inspector General and the Centers for Medicare & Medicaid Services are engaged in a rule-making process to establish safe harbors for donations of health information technology. In the preliminary stage of the rule-making process, those offices described a framework that would limit:

- Entities eligible for the safe harbor (a hospital may donate to members of its medical staff; a group practice may donate to physicians who are members of the group practice; and Medicare Advantage plans and prescription drug plans may donate to their prescribing physicians), and
- Eligible donations (software and related training).

It is likely that the final rules will specify a somewhat broader set of eligible entities and donations than the preliminary guidelines. In particular, we anticipate that hospitals and group practices will be allowed to donate to a broader set of physicians and that the eligible donations will include some equipment.

Under the draft version of H.R. 4157, all entities would be eligible for the safe harbors. Thus, clinical laboratories, imaging centers, suppliers of durable medical equipment, pharmaceutical manufacturers, and other entities that will not be eligible for the safe harbor under current law would qualify under the bill. Although the legislation would prohibit the contract between the donor and the physician from including a condition that links the gift of technology to the volume or value of referrals to the donor, CBO expects that, in some cases, that condition would be implicit. To the extent that a gift might lead to a shift of business from one provider to another, such a development would not affect the cost of the government's health care programs. But CBO estimates that, in aggregate, such donations by entities other than hospitals, group practices, Medicare Advantage plans, and prescription drug plans would lead to an increase in the volume of services that Medicare and state Medicaid programs pay for, thus increasing costs.

CBO expects a growing use of information technology in the health care sector under current law. This legislation would accelerate the use of such technology, which would affect the nation's health care system in a number of ways. Over the long term, it might lead to administrative efficiencies, which could reduce administrative costs for the government (which, in the case of Medicare, come from discretionary spending) and for health care providers (which, under current law, would not affect the amount they get paid by the government). It might also result in more effective health care. In some cases, that might mean less use of medical services; in other cases, it might mean an increase in utilization. CBO does not estimate any net change in direct spending as a result of these other effects.

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## **Revenue**

The draft bill would require health plans, providers, and clearing houses to adopt the 10th revision of the International Classification of Diseases (ICD-10) in 2009 for all services currently submitted for payment using codes specified in the 9th revision (ICD-9). Under current law, CBO expects that the ICD-10 standard will be adopted early in the next decade (around 2012).

The cost to providers and claims processors of the transition to the ICD-10 standard will be substantial. Under the bill, those costs would be incurred several years earlier than under current law and would result in higher premiums for health insurance in those years. That increase in premiums would raise the share of compensation that is tax-advantaged (health insurance premiums) and reduce the share that is taxable (wages and salaries). As a result, CBO estimates that enacting H.R. 4157 would reduce federal revenues from income and payroll taxes during the 2009-2011 period.

I hope this information is helpful to you. The CBO staff contact for further information is Tom Bradley.

Sincerely,

Donald B. Marron  
Acting Director

cc: Honorable William "Bill" M. Thomas  
Chairman

Honorable Nancy L. Johnson  
Chairman  
Subcommittee on Health

Honorable Fortney Pete Stark  
Ranking Member