



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 9, 2014

H.R. 3522 **Employee Health Care Protection Act of 2014**

As ordered reported by the House Committee on Energy & Commerce on July 30, 2014, with modifications reflected in Rules Committee Print 113-56 and an amendment (HR3522-RCP-AMD_01.XML) posted on the website of the Committee on Rules on September 8, 2014

SUMMARY

H.R. 3522, as amended, would allow insurers to offer group health insurance plans that they offered on any date during 2013 until December 31, 2018, regardless of whether the coverage they provide complies with the market and benefit rules that took effect on January 1, 2014, under the Affordable Care Act (ACA). Groups would be allowed to enroll in such plans even if they had not previously been covered by them, and people enrolled in those plans would be considered to be in compliance with the individual mandate imposed by the ACA, which requires most residents of the United States to have “minimum essential coverage” (as defined in that act) beginning in 2014. However, insurers would not be allowed to offer such coverage through health insurance exchanges.

CBO and the staff of the Joint Committee on Taxation (JCT) estimate that enacting H.R. 3522 would increase federal revenues by a total of \$1.25 billion over the fiscal years 2015 to 2024. About \$400 million of that increase in revenues would be off-budget (Social Security payroll tax collections are classified as off-budget).

Pay-as-you-go procedures apply to H.R. 3522 because enacting the legislation would affect revenues. H.R. 3522 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of H.R. 3522 is shown in the following table.

	By Fiscal Year, in Millions of Dollars										2015-	2015-
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2019	2024
CHANGES IN REVENUES												
Estimated Revenues	60	150	240	310	380	110	0	0	0	0	1,140	1,250
On-budget	40	100	160	220	260	80	0	0	0	0	780	860
Off-budget	20	50	70	100	120	40	0	0	0	0	360	400

Note: On-budget and off-budget effects may not sum to totals because of rounding.

BASIS OF ESTIMATE

Under current law, health insurance plans sold in the small group market (generally defined as firms with 50 or fewer employees) must comply with a number of market rules and benefit standards established under the ACA, unless they qualify for an exception. Plans complying with those market and benefit rules may be sold directly to businesses or through a Small Business Health Options Program (SHOP) exchange.

Exceptions to some of the market and benefit rules are granted to certain health insurance plans that are treated as “grandfathered.” For example, grandfathered plans do not need to comply with rules limiting the factors that can be taken into account in pricing health plans, nor do they need to cover “essential health benefits” as defined in the ACA. Only coverage offered as of March 23, 2010, may qualify for grandfathered status. Once substantial changes to those plans are made, however, they lose their grandfathered status and must then comply with the applicable ACA market and benefit rules.

Additional exceptions were granted by announcements from the Administration in November 2013 and March 2014 that gave states the authority to allow health insurers to re-enroll individuals and small groups in existing coverage that does not comply with certain market and benefit rules (those that took effect on January 1, 2014) through October 1, 2016 (extending that coverage through September 2017). Those administrative announcements leave discretion to the states about whether to allow such re-enrollment in noncompliant plans, and states have made a range of choices about how long noncompliant plans may be renewed in their insurance markets.

H.R. 3522, as amended, would allow insurers to offer for sale until December 31, 2018 (for coverage through December 31, 2019), group health insurance policies that they offered on any date during 2013, whether or not the coverage they provide is in compliance with the

ACA's market and benefit rules. In contrast with what is allowed under the Administration's announcements, under the bill, groups would be allowed to enroll in such noncompliant plans even if they had not previously been covered by them, and that coverage would be considered minimum essential coverage for purposes of complying with the individual mandate. Insurers would not be allowed to offer such coverage through the SHOP exchanges. The legislation would not require states to allow noncompliant group plans to be sold through 2018, but would permit states to allow such plans at their discretion.

Large groups are not subject to some of the market and benefit rules established under the ACA. Additionally, most large groups choose to self-insure, and H.R. 3522 would not apply to self-insured plans.

CBO and JCT estimate that under H.R. 3522, as amended, some small groups that would have enrolled in compliant plans would enroll in noncompliant plans instead. We expect that premiums for noncompliant plans would be lower, on average, than they would be for compliant plans, because groups that would choose noncompliant plans would tend to be those that had lower medical costs (due to the average age and health status of their members) and preferred less extensive insurance coverage. As a result, firms remaining in compliant health plans would face somewhat higher premiums. Overall, the share of employees' compensation that takes the form of nontaxable benefits (such as health insurance premiums) would be slightly smaller—and the share that takes the form of taxable wages and salaries would be slightly larger—than would otherwise be the case. That shift would increase federal revenues by \$1,250 million over the 2015-2024 period, CBO and JCT estimate.

Under current law, group plans for firms with between 51 and 100 employees will be subject to the market and benefit rules established for small groups by the ACA beginning in 2016. CBO and JCT expect that participation in noncompliant plans by those groups would be more limited under the bill than participation by smaller groups. One reason is that because of their larger size, firms with 51 to 100 employees are more likely to have employees whose medical costs are close to the overall average and thus would be less likely to benefit from lower premiums.

CBO and JCT estimate that, as a result of H.R. 3522, as amended, an additional 2 million people in the small group market would enroll in policies in 2016 that are not compliant with the market and benefit rules under the ACA. We expect that enrollment in such plans would increase through 2019 (plans sold in 2018 would cover enrollees for that year). CBO and JCT do not expect a significant effect of the bill on total coverage in the group insurance market; rather, we expect shifts in which type of plans groups would enroll in.

The extent to which noncompliant policies would be offered and enrolled in is limited by several factors:

- Some states would probably decide not to allow the sale of noncompliant plans through 2018. Several states have not allowed noncompliant plan renewals under the Administration's November 2013 and March 2014 announcements, and other states have allowed renewals for a shorter time period than permitted by the Administration. These states might continue with their existing decisions rather than newly allowing or extending the sale of noncompliant plans.
- Some issuers that would be permitted to offer noncompliant plans would probably decide not to offer them or to offer them only for a limited period of time as they transition their business to ACA-compliant plans.
- Some small groups, and in particular those with older or sicker workers, would find that ACA-compliant plans would have lower premiums than noncompliant plans.
- Some small groups may find features of the SHOP exchanges appealing; for example, these exchanges may make the search for insurance plans simpler for some small groups. To the extent that small groups prefer to use the SHOP exchanges to select plans rather than to conduct their own plan search, some eligible small groups would not enroll in noncompliant plans.
- The bill would allow small groups to newly enroll in noncompliant plans for 2015, even if they were not enrolled in them in 2014. But by the assumed time of enactment of the bill in the fall of 2014, many small groups would have already made their insurance enrollment decisions for plan year 2015. Therefore, CBO and JCT expect a smaller effect of the bill in 2015 than if small groups had more time to change their enrollment decisions.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting on-budget direct spending or revenues. The net changes in on-budget revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 3522, incorporating modifications posted on the website of the Committee on Rules

	By Fiscal Year, in Millions of Dollars											2015-	2015-
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2019	2024	
NET INCREASE OR DECREASE (-) IN THE ON-BUDGET DEFICIT													
Statutory Pay-As-You-Go Impact	-40	-100	-160	-220	-260	-80	0	0	0	0	-780	-860	

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 3522 contains no intergovernmental or private-sector mandates as defined in UMRA.

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