CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

March 24, 2010

H.R. 4894

A bill to amend the Patient Protection and Affordable Care Act to ensure appropriate treatment of Department of Veterans Affairs and Department of Defense health programs

As introduced in the House of Representatives on March 20, 2010

H.R. 4894 would amend the Patient Protection and Affordable Care Act (PPACA), enacted as Public Law 111-148, to clarify that health benefit programs administered by the Department of Defense (DoD) and the Department of Veterans Affairs (VA) would meet the criteria for minimal essential coverage required by that act. H.R. 4894 also would clarify that nothing in PPACA shall affect any health care benefits provided by DoD or VA or supersede their existing authorities.

Most of the spending related to DoD and VA health programs is controlled by annual appropriations. The only exceptions are benefits provided by DoD's TRICARE for Life program, which are paid from the Medicare-Eligible Retiree Health Fund (MERHCF), a mandatory account. Because CBO and the Joint Committee on Taxation believe health benefit programs administered by DoD and VA will already meet the criteria for minimal essential coverage—which will be determined by the Secretary of Health and Human Services—we estimate the provisions related to minimal essential coverage in H.R. 4894 would have no significant effects on the federal budget.

Another provision of H.R. 4894 would require that nothing in Public Law 111-148 shall be construed as affecting any health care benefits provided by DoD's TRICARE program or VA.[1] PPACA makes several changes to Medicare provider payments that will affect both mandatory and discretionary payments under TRICARE. Based on conversations with DoD attorneys, CBO believes that this provision of H.R. 4894 could create uncertainty about future TRICARE payment levels.

Benefit payments under TRICARE and Medicare are linked in several ways. First, the mandatory TRICARE for Life program provides a wrap-around health care benefit for

[1] The military's health care program, TRICARE, comprises nine health plans that cover uniformed service members, retirees, and their dependents in the United States and abroad. Three of the most commonly used plans are TRICARE Prime—a managed care option, TRICARE Standard—a traditional fee-for-service option, and TRICARE for Life—which provides wrap-around coverage for Medicare-eligible beneficiaries.

military retirees and their dependents that are Medicare-eligible. Because TRICARE for Life usually pays the coinsurance for Medicare covered services, any change in Medicare payment rates will have a corresponding impact on payments under TRICARE for Life. Under the combination of PPACA and the revisions to that law in the Reconciliation Act of 2010, which is still pending before the Congress, CBO estimates that changes to Medicare payment rates would produce $4.4 billion in mandatory savings to the MERHCF over the 2010-2019 period.

In addition, provider payments under the TRICARE Prime and Standard programs (which are, for the most part, funded through annual appropriations) are required by law to match Medicare payment rates as closely as possible. Any changes to Medicare payment schedules will usually impact those two health plans. Thus, because TRICARE spending is influenced by Medicare payment rates, the provision stating that nothing in PPACA shall be construed as affecting TRICARE benefits could put at risk some of the estimated mandatory savings identified above ($4.4 billion over 10 years) and could also affect spending subject to annual appropriation. As explained below, however, CBO believes that the risk of losing a significant amount of that savings is low.

One interpretation of H.R. 4894 is that because the changes to Medicare in PPACA (as well as in the pending reconciliation act) affect TRICARE, TRICARE would be required to pay providers using the same rate structure that existed prior to enactment of PPACA. In that instance, any savings to TRICARE that would have resulted under Public Law 111-148 would no longer occur. However, CBO believes this interpretation is unlikely, given how difficult it would be to create an alternate structure for provider payments and because H.R. 4894 reaffirms the underlying authority for TRICARE, including the requirement that TRICARE conform to Medicare payment rates. Therefore, CBO estimates that implementing the provisions of H.R. 4894 would probably not have any significant effect on direct spending or revenues. In addition, H.R. 4894 would probably not have a significant impact on spending subject to appropriation, CBO estimates.

H.R. 4894 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Schmit. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.