CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

March 10, 2017

H.R. 372
Competitive Health Insurance Reform Act of 2017

As ordered reported by the House Committee on Judiciary on February 28, 2017

Under current law, some activities of companies that provide health insurance are exempt from certain federal antitrust laws if the companies are engaged in the business of insurance and are regulated at the state level. H.R. 372 would remove that exemption and subject such businesses to federal antitrust laws, but would retain the antitrust exemption for certain collaborative activities between health insurance businesses.

Based on an analysis of information from the Federal Trade Commission (FTC) about the commission's current enforcement capabilities, CBO estimates that implementing H.R. 372 would increase costs by less than $500,000 for the FTC and the Department of Justice (DOJ) to enforce the expanded antitrust laws. Such spending would be subject to the availability of appropriated funds.

H.R. 372 could affect the size and costs of premiums charged by private health and dental insurance companies, but those effects would probably be quite small. Changes in health or dental insurance premiums can affect federal revenues because of the favorable tax treatment that is accorded to employment-based coverage under current law. Premiums might be lower to the extent that enacting the bill would prevent insurers from engaging in practices currently exempted from antitrust law. (That effect would probably be small because the range of insurer practices that fall under the antitrust exemption is narrow and such practices are subject to state regulation.) On the other hand, insurers could become subject to additional litigation and thus their costs and premiums might increase. Based on information from the National Association of Insurance Commissioners, the FTC, and DOJ, CBO estimates that both of those effects would be small. Thus, enacting the bill would have no significant net effect on the premiums that private insurers would charge for health or dental insurance and any effect on federal revenue would be negligible.

Because those prosecuted and convicted under H.R. 372 could be subject to criminal fines, federal collections may increase. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent without further appropriation action; therefore, pay-as-you-go procedures apply. CBO expects that any additional revenues and subsequent direct spending would not be significant because the legislation would probably affect only a small number of cases.

CBO estimates that enacting H.R. 372 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 372 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 372 would impose a private-sector mandate, as defined in UMRA, on issuers of health insurance by repealing their exemptions from federal antitrust laws with some exceptions. Because state laws generally prohibit or regulate activities that would be prohibited under the bill, CBO estimates that the incremental cost for health insurers to comply with the mandate would fall below the annual threshold established in UMRA for private-sector mandates ($156 million in 2017, adjusted annually for inflation).

The CBO staff contacts for this estimate are Stephen Rabent and Scott Laughery (for federal costs) and Amy Petz (for private-sector mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.