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

Keith Hall, Director

March 19, 2018

Honorable Lamar Alexander
Chairman
Committee on Health,
Education, Labor and Pensions
United States Senate
Washington, DC 20510

Re: Appropriation of Cost-Sharing Reduction Subsidies

Dear Mr. Chairman:

On March 19, 2018, the Congressional Budget Office and the staff of the Joint Committee on Taxation (JCT) produced a cost estimate for the Bipartisan Health Care Stabilization Act of 2018 (BHCSA). The agencies estimated that enacting the BHCSA would increase the deficit by $19 billion over the 2018-2027 period relative to CBO's baseline, primarily because of the cost of subsidizing reinsurance or invisible high-risk pool programs in the nongroup health insurance market. The reduction in premiums associated with those programs would primarily benefit people with income greater than 400 percent of the federal poverty level (FPL).[1] This letter responds to your request for additional information about that estimate.

You requested an alternative estimate of section 602(b) of the bill, which would appropriate such sums as may be necessary for payments for cost-sharing reductions (CSRs) authorized by section 1402 of the Affordable Care Act (ACA).[2] Specifically, you asked that CBO and JCT provide an alternative estimate that reflects the fact that insurers are not being separately reimbursed through an appropriation for the costs of CSRs.[3] Under such a scenario, CBO and JCT estimate that enacting section 602(b)

1. Most people with incomes below 400 percent of the FPL purchasing nongroup insurance receive premium tax credits that largely insulate them from changes in gross premiums.

2. The ACA comprises the Patient Protection and Affordable Care Act (Public Law 111-148) and the provisions of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) that are related to health care.

3. CSRs take the form of reduced deductibles, copayments, and other means of cost sharing for eligible individuals enrolled in silver plans through marketplaces.

of the BHCSA would result in a net reduction in the deficit of $29 billion over the 2018-2027 period, as opposed to having no effect when estimated relative to CBO's baseline.

That net deficit reduction of $29 billion would stem mainly from smaller federal subsidies for health insurance purchased through the marketplaces by people with income between 200 percent and 400 percent of the FPL.

Background

The ACA requires insurers to offer CSRs to eligible people who purchase silver plans through the marketplaces established by that legislation.[4] People must generally have income between 100 percent and 250 percent of the FPL to qualify for CSRs, and the size of that subsidy varies with income. Individuals with incomes generally between 100 percent and 400 percent of the FPL also are eligible for tax credits to help cover a portion of their premiums. The size of those premium tax credits varies with income and premiums.

Prior to October 2017, the federal government reimbursed insurers for the cost of CSRs through a direct payment. However, on October 12, 2017, the Administration announced that it would no longer make such payments to insurers absent an appropriation for that purpose. Because insurers are still required to offer CSRs and to bear their costs even without a direct payment from the government, most have covered those costs by increasing premiums for silver plans offered through the marketplaces for the 2018 plan year. (For the most part, insurers did not increase premiums for other plans to cover the cost of CSRs because the CSR entitlement is not available for those plans.)

Based on an analysis of insurers' rate filings, CBO and JCT estimate that gross premiums for silver plans offered through the marketplaces are, on average, about 10 percent higher in 2018 than they would have been if CSRs were funded through a direct payment. The agencies project that amount will grow to roughly 20 percent by 2021.

4. In most marketplaces, people can choose among plans—such as bronze, silver, and gold—for which the portion of covered medical expenses paid by the insurer differs. The average percentage of expenses paid by the insurer is considered the actuarial value of the plan. Silver plans differ from other plans because they must provide CSRs to eligible enrollees. For people at most income levels, the actuarial value of a silver plan is 70 percent; however, people who qualify for CSRs are eligible for silver plans with higher actuarial values.

The size of premium tax credits is linked to the premiums for the second-lowest-cost silver plans offered through the marketplaces: Out-of-pocket payments for premiums for enrollees who are eligible for subsidies are based on a percentage of their income, and the government pays the difference through the premium tax credit. As a result, higher gross premiums for silver plans are expected to increase the amount of tax credits paid by the federal government, thereby covering the costs to insurers of CSRs. However, higher gross premiums for silver plans are not expected to significantly affect the out-of-pocket payments that subsidized enrollees pay for premiums for silver plans offered through the marketplaces because the structure of the premium tax credit largely insulates them from those increases.

In addition, because insurers in the majority of states are not expected to increase gross premiums for non-silver plans much, if at all, to cover the costs of CSRs, the larger premium tax credits are expected to cover a greater share of premiums for non-silver plans in those states. For example, more people would be able to use their higher premium tax credits to obtain bronze plans, which cover a smaller share of benefits than silver plans, for free or for very low out-of-pocket premiums. Also, the agencies anticipate that some people with income between 200 percent and 400 percent of the FPL would be able to purchase plans that cover a greater share of benefits with similar or lower premiums, after tax credits, than do silver plans. As a result of those changes, the agencies estimate that more people would purchase subsidized plans in the marketplaces than would have if the federal government had directly reimbursed insurers for the cost of CSRs.[5]

Budgetary Treatment

Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, which specifies rules for constructing the baseline, requires that CBO assume full funding of entitlement authority.[6] CBO and JCT have long viewed the requirement that the federal government compensate insurers for CSRs as a form of entitlement authority. On that basis, in the most recent baseline projections (summer 2017), CBO included the CSR payments as direct spending (that is, spending that does not require appropriation action). After consulting with the Budget Committees, CBO

5. For related discussion, see Congressional Budget Office, *The Effects of Terminating Payments for Cost-Sharing Reductions* (August 2017), www.cbo.gov/publication/53009.

6. 2 U.S.C. §907(b)(1) (2012). Entitlement authority is authority for federal agencies to incur obligations to make payments to entities that meet the eligibility criteria set in law.

continued to assume in its baseline that CSRs would be funded even though the Administration announced on October 12, 2017, that it would stop making direct payments for CSRs.

Section 602(b) of the BHCSA would appropriate such sums as may be necessary for the federal government to make payments to insurers for CSRs for the last quarter of plan year 2017, for certain insurers for plan year 2018, and for all of plan years 2019, 2020, and 2021. Because such direct payments are already in CBO's baseline projections, CBO and JCT estimated that providing such an appropriation would not increase direct spending or revenues, relative to the baseline.

Alternate Estimate

Estimating the budgetary effects of section 602(b) of the BHCSA relative to a different benchmark—that the CSR entitlement is funded through adjustments to premiums and premium tax credits (not through direct federal payment)—would produce a different budgetary result. Specifically, CBO and JCT estimate that appropriating funds for CSR payments for part of 2017 and for 2018—years in which insurers have already set premiums—would increase the deficit. However, CBO and JCT estimate that appropriating funds for CSR payments for the 2019-2021 period would reduce the deficit, on net, because insurers would no longer increase gross premiums for silver plans offered through the marketplaces in those years to cover the costs of CSRs.

Appropriating Funds for CSR Payments for 2017. Section 602(b) would appropriate such sums as may be necessary for CSR payments in the last quarter of plan year 2017. Because such an appropriation would not affect premiums that have already been set, the agencies estimate that the provision would cost $1.8 billion in 2018 relative to the alternative benchmark.

Special Rules for 2018. Section 602(b) would appropriate such sums as may be necessary for the cost of CSR payments in plan year 2018 for certain insurers that did not increase premiums in response to the lack of direct funding for such subsidies. Based on an analysis of rate filings and information from states, CBO and JCT estimate that about 5 percent of individuals receiving CSRs are enrolled in such plans and that the provision would cost $320 million relative to the alternative benchmark.

Section 602(b) also would provide an additional appropriation to Minnesota’s and New York’s Basic Health Programs (BHPs) in 2018. Those programs provide an alternative form of health insurance for individuals with incomes below 200 percent of the FPL who would otherwise be eligible for subsidized coverage through the marketplaces. The federal government subsidizes those programs by providing a per-enrollee payment equal to 95 percent of the subsidy those individuals would have received if they had obtained insurance through their state’s marketplace. The appropriation in section 602(b) would provide funding equal to 95 percent of the amount of those enrollees’ cost-sharing subsidies for 2018. CBO estimates that this would cost $1.2 billion in 2018 relative to the alternative benchmark.

Appropriating Funds for CSR Payments for 2019-2021. If the estimate incorporated the assumption that insurers were currently compensated for CSRs through larger premium tax credits, CBO and JCT estimate that appropriating payments for CSRs in future years would decrease total federal subsidies (premium tax credits and CSRs combined) for health insurance in the nongroup market. That decrease would occur because the average amount of subsidy per person would be smaller, and because fewer people would receive subsidies.

CBO and JCT anticipate that if insurers were compensated for CSRs through an appropriation, they would no longer increase gross premiums for silver plans offered through the marketplaces to cover the cost of providing reduced deductibles, copayments, and other means of cost sharing as required by law. As premiums declined, so would premium tax credits. CBO and JCT estimate that premium tax credits would decrease by more than the cost of appropriating CSR payments mainly because the decrease in premium tax credits for those with income between 200 percent and 400 percent of the FPL would be substantially larger than the small increases in CSR payments for this group. According to CBO and JCT’s estimates, the reduction in the average subsidy per person accounts for less than half of the projected net reduction in federal costs for coverage through the marketplaces.

In addition, the agencies estimate that fewer people would enroll in—and receive subsidies for—coverage through marketplaces if payments for CSRs were appropriated. Those declines in enrollment would occur mostly among people with incomes between 200 percent and 400 percent of the FPL. As discussed earlier, in the absence of direct CSR payments, premiums and premium tax credits rise, and the higher premium tax credits are expected to cover a greater share of premiums for non-silver plans. For example, some people in that income range may be able to pay a similar or lower premium after tax credits for a plan that covers a greater share of covered benefits than a silver plan does. Accordingly, if the federal government instead directly reimbursed insurers for the cost of CSRs, people with income between 200 percent and 400 percent of the FPL would no longer have that option. In addition, fewer people would have access to bronze plans at no or very low premium cost after tax credits. The projected reduction in subsidized enrollment accounts for more than half of the estimated net reduction in federal costs for coverage through the marketplaces.

CBO and JCT estimate that appropriating CSR payments for 2019 through 2021 would, on net, reduce the deficit by $32 billion over the 2019-2027 period relative to the alternative benchmark. In addition, CBO and JCT project that the number of uninsured people would increase by less than 500,000 in 2019 and by between 500,000 and 1 million in 2020 and 2021. Most of those uninsured people would have incomes between 200 percent and 400 percent of the FPL.

I hope that you find this information helpful; if you wish to have further information, we will be pleased to provide it. The primary staff contacts for this analysis are Kate Fritzsche and Kevin McNellis.

Sincerely,

Keith Hall
Director

cc: Honorable Patty Murray
Ranking Member

Identical letter sent to the Honorable Greg Walden