GRIM DIAGNOSIS

A check-up on the federal health law

United States Senate
111th Congress
Senator Tom Coburn, M.D.
Senator John Barrasso, M.D.
October 2010

Contents

Introduction

Before it became law, supporters argued the federal health care overhaul would become more popular after it passed Congress.[1] However, more than two hundred days later, Americans remain deeply divided about the new law. Today, most Americans remain opposed to the law or are still unsure about the law's impact.[2] And as Americans learn more about the new law, they have more reasons to be concerned about the future of our health care system.

Proponents of the health care overhaul often pledged that health reform would allow Americans who liked their current health plan to keep it. But In June, the U.S. Department of Health and Human Services issued rules limiting changes employers can make to health insurance plans, and still be considered to be "grandfathered" – or exempt from many of the new mandates in the law. Under the Department's own estimates, *more than half* of companies may have to give up their current health coverage because of the new law by 2013.[3] And, in their estimate, the Administration predicts that *eight in 10* small businesses could lose their current health plans.[4]

Supporters of the health care legislation said it would reduce the deficit. However, in June, the Congressional Budget Office (CBO) estimated that, even with the new health care overhaul, "rapidly rising health care costs will sharply increase federal spending for health care programs."[5] CBO Director Doug Elmendorf told Congress that the health care overhaul did little to put the country on track toward fiscal responsibility.[6]

Advocates for the legislation also dismissed concerns we raised that cuts to Medicare to fund new government programs could also negatively impact seniors' access to care. Yet in August, the Medicare trustees' examined the nearly $530 billion in cuts to the Medicare program and concluded that "there is a strong likelihood" that the Medicare changes under the new law "will not be viable."[7] This means that promised savings from the Medicare cuts are unrealistic and that future changes to the law could increase spending and the deficit. The official Chief Actuary of Medicare warned that "the financial projections shown in [the] report for Medicare do not represent a reasonable expectation for actual program operations in either the short range … or the long range," and even issued a second analysis based on "more sustainable assumptions" that showed costs to federal taxpayers continuing to skyrocket. [8]

---

[1] On Sunday, March 21, 2010, the House of Representatives passed the Patient Protection and Affordable Care Act (HR 3590)—which the Senate previously passed on December 24, 2009—and a reconciliation package (HR 4872) designed to amend certain provisions of the Senate bill. HR 3590 became Public Law Number 111-148 on March 23, 2010. HR 4872 was cleared for the White House and President Obama signed it into law on March 30, 2010.

[2] Pew Research Center/National Journal Congressional Connection Poll, September 9-12, 2010. http://people-press.org/reports/questionnaires/653.pdf

[3] U.S. Department of Health and Human Services, "Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act; Interim Final Rule and Proposed Rule," June 17, 2010. http://www.regulations.gov/search/Regs/contentStreamer?objectId=0900006480b03a90&disposition=attachment&contentType=pdf

[4] U.S. Department of Health and Human Services, "Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act; Interim Final Rule and Proposed Rule," June 17, 2010. http://www.regulations.gov/search/Regs/contentStreamer?objectId=0900006480b03a90&disposition=attachment&contentType=pdf

[5] Congressional Budget Office, "The Long Term Budget Outlook," June 2010, Revised August 2010. http://www.cbo.gov/ftpdocs/115xx/doc11579/06-30-LTBO.pdf

[6] Congressional Budget Office, "The Long Term Budget Outlook," June 2010, Revised August 2010. http://www.cbo.gov/doc.cfm?index=11579, page 11 of PDF.

[7] The Boards Of Trustees, Federal Hospital Insurance And Federal Supplementary Medical Insurance Trust Funds, " 2010 Annual Report Of The Boards Of Trustees Of The Federal Hospital Insurance And Federal Supplementary Medical Insurance Trust Funds." http://www.cms.gov/ReportsTrustFunds/downloads/tr2010.pdf, page 287 of PDF.

[8] The Boards Of Trustees, Federal Hospital Insurance And Federal Supplementary Medical Insurance Trust Funds, " 2010 Annual Report Of The Boards Of Trustees Of The Federal Hospital Insurance And Federal Supplementary Medical Insurance Trust Funds." http://www.cms.gov/ReportsTrustFunds/downloads/tr2010.pdf, page 288 of PDF.

The finances of the federal government are in even worse shape. This year the federal budget deficit is projected to climb to $1.3 trillion.[9] Our national debt stands at a whopping $13.6 *trillion*. The interest that taxpayers pay on the national debt totals more than $20 billion a month.[10]

The outlook for the economy could get worse if action is not taken. According to a CBO analysis from earlier this year, "further increases in federal debt …almost certainly lie ahead if current policies remain in place."[11] "Persistent deficits and continually mounting debt would have several negative economic consequences for the United States," CBO said, including an "increase [in] the probability of a sudden fiscal crisis."[12]

With our economic situation dire and our country's future hanging in the balance, the issues of the economy, debt, spending, and jobs are among most Americans' top concerns.[13] A recent survey found that nearly nine in 10 voters were deeply concerned about the overall economic situation, with unemployment a close second concern.[14]

Unfortunately, the overhaul that passed Congress this spring did not represent the *real* health reform Americans want and need. The new law focused on some of the symptoms in our health care system, but failed to address the underlying disease. For a majority of Americans, the cost of health coverage is their primary concern.[15] For too many, cost is the access problem. Unfortunately, the new law increases costs to patients, consumers, and taxpayers, while exacerbating many existing problems in health care.

This report presents the American people with a second opinion on the economic and financial impacts of the new health care law. Americans have a right to know how their health care, jobs, and financial stability will be impacted by the new law. The health overhaul threatens our nation's economic recovery, increases costs, and reduces job growth.

As practicing physicians, we are committed to real health care reform. Costs are too high. Choices are too few. Health coverage remains out of reach for too many Americans. Interference from government bureaucrats and insurance companies is too constant and pervasive. We believe real reform begins with replacing the new law with sensible provisions that will lower costs, increase patient control, reduce bureaucracy and government interference, and put affordable, high quality health coverage within the reach of every American.

Tom Coburn, M.D. and John Barrasso, M.D.
U.S. Senators

---

[9] Congressional Budget Office, "The Budget and Economic Outlook: An Update," August 2010. http://www.cbo.gov/ftpdocs/117xx/doc11705/2010_08_19_SummaryforWeb.pdf

[10] U.S. Department of the Treasury, Financial Management Service. "Monthly Treasury Statement of Receipts and Outlays of the United States Government For Fiscal Year 2010 Through August 31, 2010." http://www.fms.treas.gov/mts/mts0810.pdf See highlight on cover page and detail on page 28

[11] Congressional Budget Office, "Federal Debt and the Risk of a Fiscal Crisis," July 27, 2010. http://www.cbo.gov/ftpdocs/116xx/doc11659/07-27_Debt_FiscalCrisis_Brief.pdf

[12] Congressional Budget Office, "Federal Debt and the Risk of a Fiscal Crisis," July 27, 2010. http://www.cbo.gov/ftpdocs/116xx/doc11659/07-27_Debt_FiscalCrisis_Brief.pdf

[13] Jones, Jeffrey. "Voters Rate Economy as Top Issue for 2010," April 8, 2010. http://www.gallup.com/poll/127247/voters-rate-economy-top-issue-2010.aspx

[14] Buhr, Tami. "Fox News Poll: Economic Worries Plague American Voters," September 6, 2010. http://www.foxnewsinsider.com/2010/09/06/fox-news-poll-economic-worries-plague-american-voters/

[15] U.S. Department of Health and Human Services, "America Speaks on Health Reform: Report on Health Care Community Discussions," page 101, March 2009, http://www.healthreform.gov/reports/hccd/report_on_communitydiscussions.pdf .

Hundreds of Thousands of Jobs Being Lost

Before the health care legislation became law, proponents of the overhaul claimed that health reform would create jobs. At the White House health care summit in February, the Speaker of the House of Representatives asserted the federal health care overhaul would create "400,000 jobs almost immediately," both in the health care industry and "in the entrepreneurial world as well."[16] However, recent independent reviews have contradicted such rosy scenarios and found the legislation will wipe out hundreds of thousands of jobs.[17]

Nonpartisan Experts Conclude Health Overhaul Reduces Labor Force By 788,000 Jobs

The nonpartisan Congressional Budget Office (CBO) released an analysis of the "effects of recent health care legislation on labor markets."[18] The CBO's findings painted a troubling picture. The massive Medicaid expansion will "encourage some people to work fewer hours or to withdraw from the labor market."[19] Additionally, phasing out the subsidies to buy expensive insurance "will effectively increase marginal tax rates, which will also discourage work."[20] CBO said "other provisions in the legislation are also likely to diminish people's incentives to work." [21]

The CBO "estimates that the legislation, on net, will reduce the amount of labor used in the economy by a small amount—roughly half a percent—primarily by reducing the amount of labor that workers choose to supply", which is more than 788,470 employees.[22] Another independent estimate predicted the overhaul will "destroy a total of 120,000 to 700,000 jobs by 2019."[23] This is a huge number of future jobs and future workers that will be effectively sidelined because of the health reform legislation. With more than 14 million Americans out of work today, we cannot afford to lose more jobs.

New Provisions Kill Health Care Industry Jobs

The CBO's analysis did not even take into account the overhaul's job impact on specific industries. Unfortunately, the lost jobs count can be expected to climb even higher because of a simple provision

---

[16] Pelosi, Nancy. "Remarks by the President, Senator Alexander, Speaker Pelosi, and Senator Reid in Opening Statements at Bipartisan Meeting on Health Care Reform," The White House, February 25, 2010. http://www.whitehouse.gov/the-press-office/remarks-president-senator-alexander-speaker-pelosi-and-senator-reid-opening-stateme

[17] In addition to the analysis on CBO's findings in this report, see Tuerck, David, et. al. "Killing Jobs through National Health Care Reform," Beacon Hill Institute Policy Study, March 2010. http://www.atr.org/userfiles/BHI%20Health%20Care%20Reform%20as%20Job%20Killer(7).pdf

[18] Congressional Budget Office, "The Budget and Economic Outlook: An Update," August 2010, page 66-67 of PDF. http://cbo.gov/ftpdocs/117xx/doc11705/08-18-Update.pdf

[19] Congressional Budget Office, "The Budget and Economic Outlook: An Update," August 2010, page 66-67 of PDF. http://cbo.gov/ftpdocs/117xx/doc11705/08-18-Update.pdf

[20] Congressional Budget Office, "The Budget and Economic Outlook: An Update," August 2010, page 66-67 of PDF. http://cbo.gov/ftpdocs/117xx/doc11705/08-18-Update.pdf

[21] Congressional Budget Office, "The Budget and Economic Outlook: An Update," August 2010, page 66-67 of PDF. http://cbo.gov/ftpdocs/117xx/doc11705/08-18-Update.pdf

[22] Congressional Budget Office, "The Budget and Economic Outlook: An Update," August 2010, page 66-67 of PDF. http://cbo.gov/ftpdocs/117xx/doc11705/08-18-Update.pdf . According to a U.S. Department of Labor estimate, the 2010 labor force is estimated to comprise 157,695,000 workers. Half of one of percent of our nation's 157 million workforce equals 788,475 workers. Lee, Marlene and Mather, Mark. "U.S. Labor Force Trends," Population Bulletin, Vol. 63, No. 2, June 2008. http://www.prb.org/pdf08/63.2uslabor.pdf

[23] Tuerck, David, et. al. "Killing Jobs through National Health Care Reform," Beacon Hill Institute Policy Study, March 2010. http://www.atr.org/userfiles/BHI%20Health%20Care%20Reform%20as%20Job%20Killer(7).pdf

tucked into the legislation. Section 6001 of the health overhaul prohibits hospitals owned by physicians from expanding and denied Medicare reimbursements to any physician-owned hospitals not certified by Medicare by the end of the year.

According to a *Washington Times* report, "the Physician Hospitals of America (PHA) identified 39 projects under development whose owners had canceled outright, knowing they could not win Medicare certification by the end-of-year deadline, plus another 45 that will be hard-pressed to meet Medicare certification criteria in time."[24] Sadly, according to PHA conversations with its member hospitals, the canceled projects could have created "roughly 25,000 jobs."[25] As the *Times* article notes, the "job-killing provisions" of the overhaul are "particularly ironic given that physician-owned facilities tend to be economically efficient and deliver superior medical outcomes."[26]

Ironically, while the new law has made it illegal for physicians to have further ownership in a hospital, the law has the effect of increasing a hospital system's "ownership" of an individual physician. The legislation embraces a pilot payment model of "accountable care organizations" (ACOs). While integrated care delivery teams are a good goal, the manner in which the legislation designed ACOs could accelerate the trend of physicians leaving private practice to work in a centralized hospital setting. Over the next three years, three in four hospitals or health systems reported they plan on hiring more physicians, and more than half said they will buy entire medical practices.[27]

A former policy advisor at the Centers for Medicare and Medicaid Services (CMS) described the approach of the law as envisioning "that doctors will fold their private offices to become salaried hospital employees, making it easier for the federal government to regulate them and centrally manage the costly medical services they prescribe."[28] The former CMS official suggested that the centralization of physician employment has already begun, noting that "in 2005, more than two-thirds of medical practices were doctor-owned, a share that was largely constant for many years. By next year, the share of practices owned by physicians will probably drop below 40 percent, according to data from the Medical Group Management Association."[29] Even a White House official who helped push the overhaul through Congress recently admitted in an article that "the economic forces put in motion by the [health legislation] are likely to lead to vertical organization of providers and accelerate physician employment by hospitals and aggregation into larger physician groups."[30]

Coordinated care is admirable, but greater consolidation of providers under a hospital would increase a hospital system's market share and negotiating power over remaining providers. With less choice and competition in the health care marketplace, costs to consumers would likely increase even further.[31] As the Center for Studying Health System Change concluded from a recent study of California's experience in similar attempted reforms, "proposals to promote integrated care through models such as accountable

---

[24] Bacon, James. "Casualties Heavy at hospitals," The Washington Times, August 27, 2010.
http://www.washingtontimes.com/news/2010/aug/27/casualties-heavy-at-hospitals/
[25] Bacon, James. "Casualties Heavy at hospitals," The Washington Times, August 27, 2010.
http://www.washingtontimes.com/news/2010/aug/27/casualties-heavy-at-hospitals/
[26] Bacon, James. "Casualties Heavy at hospitals," The Washington Times, August 27, 2010.
http://www.washingtontimes.com/news/2010/aug/27/casualties-heavy-at-hospitals/
[27] Gottlieb, Scott. "Killing Marcus Wellby," The New York Post, October 18, 2010.
http://www.nypost.com/p/news/opinion/opedcolumnists/killing_marcus_welby_FLnABqCKwpyF9j2i9YYpCP#ixzz12qe8huWV
[28] Gottlieb, Scott. "Killing Marcus Wellby," The New York Post, October 18, 2010.
http://www.nypost.com/p/news/opinion/opedcolumnists/killing_marcus_welby_FLnABqCKwpyF9j2i9YYpCP#ixzz12qe8huWV
[29] Gottlieb, Scott. "Killing Marcus Wellby," The New York Post, October 18, 2010.
http://www.nypost.com/p/news/opinion/opedcolumnists/killing_marcus_welby_FLnABqCKwpyF9j2i9YYpCP#ixzz12qe8huWV
[30] Kocher, Robert MD; Emanuel, Emanuel MD; and DeParle, Nancy-Ann. "The Affordable Care Act and the Future of Clinical Medicine: The Opportunities and Challenges," Annals of Internal Medicine, August 23, 2010.
http://www.annals.org/content/early/2010/08/23/0003-4819-153-8-201010190-00274.1.full?aimhp
[31] Terry, Ken. "Why Hospitals Shouldn't Run 'Accountable Care Organizations,'" Critical Condition, BNET.com, September 28, 2010.
http://www.bnet.com/blog/healthcare-business/why-hospitals-shouldn-8217t-run-8220accountable-care-organizations-8221/1836

care organizations could lead to higher rates for private payers." In other words, consumers could pay even more for health insurance and health care.[32]

Stifling Innovation and Jobs

It is not only hospitals that are seeing health care jobs threatened. Companies that innovate, create, and develop life-saving, life-improving devices will likely lose jobs too. Manufacturers of medical devices are reeling from a provision of the law that will levy a $20 billion excise tax on their industry. *The Boston Globe* reported that the "2.3 percent excise tax on companies that supply medical devices like heart defibrillators and surgical tools to hospitals, health centers and ambulance services," will force industry leaders to "lay off workers and curb the research and development of new medical tools."[33] One CEO said the new tax threatens his business' sustainability because it has relegated his company's profitability to merely "a break-even position."[34]

The basic problem with the tax is one of math. "'Many small to midsize medical device companies will owe more to the federal government in taxes than they make in profits,'" according to Mark Leahy, head of the Medical Device Manufacturers Association.[35] "We're talking about a 2.3 percent tax on total sales, irrespective of whether a company is making a profit."[36] The device tax will hamper innovation, since the amount of money available for a company to reinvest in its business development will be reduced. Some companies are already contemplating moving jobs overseas to avoid losing their competitive edge. Outsourcing is just one of many adverse unintended consequences of the new law.[37]

---

[32] Berenson, Robert; Ginsburg, Paul; and Nicole Kemper. "Unchecked Provider Clout In California Foreshadows Challenges To Health Reform," Health Affairs, 29, NO. 4, 2010. http://content.healthaffairs.org/cgi/reprint/hlthaff.2009.0715v1

[33] LeBlanc, Steve. "Medical device makers: New tax will cost jobs," The Boston Globe, June 7, 2010. http://www.boston.com/business/taxes/articles/2010/06/07/medical_device_makers_new_tax_will_cost_jobs/

[34] LeBlanc, Steve. "Medical device makers: New tax will cost jobs," The Boston Globe, June 7, 2010. http://www.boston.com/business/taxes/articles/2010/06/07/medical_device_makers_new_tax_will_cost_jobs/

[35] LeBlanc, Steve. "Medical device makers: New tax will cost jobs," Bloomberg Businessweek, June 7, 2010. http://www.businessweek.com/ap/financialnews/D9G6G7HG0.htm

[36] LeBlanc, Steve. "Medical device makers: New tax will cost jobs," Bloomberg Businessweek, June 7, 2010. http://www.businessweek.com/ap/financialnews/D9G6G7HG0.htm

[37] Fitzgerald, Jay. "Beware: the 'jobs killer,'" The Boston Herald, March 25, 2010. http://www.bostonherald.com/business/general/view/20100325beware_the_jobs_killer_companies_threaten_to_quit_state_over_new_tax_on_medical_devices/srvc=home&position=0

New Penalty Lowers Income

New Penalty Reduces Income, Job Growth

Many Americans are aware of the controversial "individual mandate" in the health care overhaul. But an equally problematic provision is that one that fines businesses who do not provide government approved health insurance to their employees.

Sections 1513 and 1003 of health care bills that passed Congress created new penalties for businesses that do not offer health insurance to their employers. While proponents insist this is not a mandate because businesses are penalized but not *required* to offer coverage, in function this requirement is a defacto "employer mandate." Beginning in 2014, businesses with more than 50 employees will be fined $2,000 per employee if they do not provide government approved health insurance for their employees.[38]

This intervention in the labor market creates a permanent disincentive against business growth. If a 50-employee small business that did not offer health insurance wanted to expand by merely adding one new employee, they would become subject to the employer requirements of the law. So it is actually in the business' interest *not* to hire an additional employee, lest they be hit with thousands of dollars in fines. For a fraction of that money, the business could hire a part-time employee or independent contractors to perform tasks, rather than grow the business by adding an employee.[39]

Businesses and Employees Concerned about Employer Provision

Sadly, this employer provision hurts low-income, minority workers the most. Dr. Kate Baicker found in a study that one-third of "uninsured workers earn within $3 of the minimum wage, putting them at risk of unemployment if their employers were required to offer insurance…." [40] Even worse, "workers who would lose their jobs are disproportionately likely to be high school dropouts, minority, and female…. Thus, among the uninsured, those with the least education face the highest risk of losing their jobs under employer mandates."[41]

In a letter last year, more than 1,500 business and pro-business organizations told Congress "this provision will kill many jobs."[42] Earlier this year, the National Federation of Independent Businesses (NFIB) arrived at a similar conclusion. "Economic research has shown time and again that mandates are a 'one-two punch' where the cost is first borne by the employer, but is ultimately paid by the employee –

---

[38] The first 30 employees do not count when calculating compliance with this requirement.

39 To examine the impact of this provision, consider a hypothetical small business owner. If a business employed 51 individuals but did not provide these employees with health insurance, the company would be required to pay the $2,000 fine for each employee, with the first 30 employees in the count exempted from the requirement. The firm would only be required to pay the $2,000 fine on the remaining 21 employees, but the cost of $2,000 fine for 21 employees is not insignificant: $42,000. The $42,000 is money that the business cannot use to invest in capital, hire a new employee, or cover administrative costs.

[40] Katherine Baicker and Amitabh Chandra, "Myths and Misconceptions about U.S. Health Insurance," Health Affairs, (2008). http://content.healthaffairs.org/cgi/content/full/27/6/w533

[41] Katherine Baicker and Amitabh Chandra, "Myths and Misconceptions about U.S. Health Insurance," Health Affairs, (2008). http://content.healthaffairs.org/cgi/content/full/27/6/w533

[42] U.S. Chamber of Commerce, et al. Letter to Members of the U.S. Congress, July 28, 2009. Signed by 43 national organizations, as well as 1,473 regional, state, and local chambers and businesses.

through job loss and lower wages."[43] In May, NFIB said that small businesses across the country are gravely concerned "the health care law will devastate their business and their ability to create jobs."[44]

The employer provision means businesses either reduce jobs and wages or just stop offering health coverage. Many businesses have already begun questioning whether or not it makes financial sense under the new law for them to even continue to offer health insurance. In August, the hamburger chain White Castle announced that changes to health insurance in health overhaul will consume "roughly 55 percent of its yearly net income after 2014."[45] This massive hit to the company's business model may make it hard for the company – which employs more than 10,000 individuals across the country – to keep its doors open.[46]

Other restaurant chains are weighing their options as well. The "entire restaurant industry will have trouble dealing with costs the bill imposes in 2014, including a $2,000-per-worker penalty," according to the National Council of Chain Restaurants.[47] One such example is George Ebinger, the owner of several International House of Pancakes restaurants. Ebinger anticipates he will increase prices and perhaps layoff employees to generate the $220,000 he expects will be needed to cover the cost of the penalty.[48]

Many retailers, who employ thousands of entry-level and part-time employees, are facing a similar dilemma in calculating the trade-offs between coverage for employees and costs to their business. The new health overhaul is so complex that the National Retail Federation (NRF) created a "Health Mandate Cost Calculator" to assist employers in evaluating the landscape of choices they face.[49] The business group says its member companies are concerned about the "job-killing mandates on employers" under the new law.[50] In analyzing the employer provision, a representative of the business group admitted, "We do worry about this discouraging employment, particularly when employment hasn't taken off."[51]

Nonpartisan Experts Agree on Negative Impact of Employer Provision

The *cost* of health insurance remains the primary concern for most companies. According to the Congressional Research Service, less than half of small businesses offer health coverage and these employers cite the cost of health care as their primary reason for not offering coverage. [52] Unfortunately, the defacto employer mandate not only penalizes businesses that do not purchase expensive health coverage, it creates damaging distortions in the labor market that will lead to lower wages and fewer jobs.

---

[43] Visit NFIB.com/healthcare under "Work on the Hill" to read the full letter sent to Leader Reid and Speaker Pelosi on January 11, 2010.
[44] http://www.nfib.com/press-media/press-media-item/cmsid/51584
[45] Eaton, Sabrina. "Ohio hamburger chain says insurance reform will bite into profits," The Plain Dealer, Cleveland, Ohio. http://www.cleveland.com/open/index.ssf/2010/07/ohio_hamburger_chain_says_insu.html
[46] Eaton, Sabrina. "Ohio hamburger chain says insurance reform will bite into profits," The Plain Dealer, Cleveland, Ohio. http://www.cleveland.com/open/index.ssf/2010/07/ohio_hamburger_chain_says_insu.html
[47] Eaton, Sabrina. "Ohio hamburger chain says insurance reform will bite into profits," The Plain Dealer, Cleveland, Ohio. http://www.cleveland.com/open/index.ssf/2010/07/ohio_hamburger_chain_says_insu.html
[48] Eaton, Sabrina. "Ohio hamburger chain says insurance reform will bite into profits," The Plain Dealer, Cleveland, Ohio. http://www.cleveland.com/open/index.ssf/2010/07/ohio_hamburger_chain_says_insu.html
[49] National Retail Federation, "Health Mandate Cost Calculator." http://www.nrf.com/modules.php?name=Pages&sp_id=1290
[50] Trautwine, Neil. "Pass the scalpel: it's time for a 'mandate-ectomy,'" August 27, 2010. http://blog.nrf.com/2010/08/27/pass-the-scalpel-it%e2%80%99s-time-for-a-%e2%80%9cmandate-ectomy%e2%80%9d/
[51] Eaton, Sabrina. "Ohio hamburger chain says insurance reform will bite into profits," The Plain Dealer, Cleveland, Ohio. http://www.cleveland.com/open/index.ssf/2010/07/ohio_hamburger_chain_says_insu.html
[52] Chaikind, Hinda, et al. "Private Health Insurance Provisions of H.R. 3962," (R40885), Congressional Research Service, November 6, 2009. Page 9 of PDF.

This is the conclusion reached by nonpartisan experts, and even one of the President's former advisors.[53] The Congressional Budget Office concluded that "employers' decisions to hire workers will also be affected in some cases by the health care legislation." CBO specifically noted:

> "Employers with 50 or more employees will be required to pay a penalty if they do not offer insurance or if the insurance they offer does not meet certain criteria and at least one of their workers receives a subsidy from an exchange. Those penalties, whose amounts are based on the number of full-time workers in the firm, will, over time, *generally be passed on to workers through reductions in wages or other forms of compensation*. However, firms generally cannot reduce workers' wages below the minimum wage, which will probably *cause some employers to respond by hiring fewer low-wage workers*. Alternatively, because firms are penalized only if their full-time employees receive subsidies from exchanges, *some firms may instead hire more part-time or seasonal employees."*[54]

The employer provision will lower wages and lead to less jobs because workers, not businesses, ultimately feel the impact of taxes and fines. The Congressional Budget Office also found that an employer penalty "would impose a new cost on employers" which will be passed on to employees.[55] "Employers who chose to pay the fee rather than offer health benefits would be *likely to offset at least some of those costs by paying lower wages or employing fewer people."*[56]

A member of the Congressional Budget Office's panel of health advisers, Dr. Kate Baicker, agrees. Her research found that "when it is not possible to reduce wages, employers may respond in other ways: employment can be reduced for workers whose wages cannot be lowered, outsourcing and reliance on temp agencies may increase, and workers can be moved into part-time jobs where mandates do not apply."[57]

Experts at the Congressional Research Service (CRS) expect the same outcomes as well. "Economic theory suggests the penalty should ultimately be passed through [as] lower wages [to an employee].[58] But, "if firms cannot pass on the cost in lower wages, the higher cost of workers may lead firms to reduce output and the number of workers"[59] Unfortunately, CRS estimates that about one in five employees work for a business that could be negatively impacted by the new employer penalty.[60]

Even the former director of the Office of Management and Budget, Peter Orzag, has said that increased costs to employers will be passed on to employees as reduced pay. While serving as director of the

---

[53] Peter Orzag, former director of the Office of Management and Budget under President Obama from 2009 through mid-2010.
[53] Congressional Budget Office, "The Budget and Economic Outlook: An Update," August 2010, page 66-67 of PDF, emphasis added. http://cbo.gov/ftpdocs/117xx/doc11705/08-18-Update.pdf
[55] Congressional Budget Office, "Budget Options, Volume 1: Health Care," December 2008, page 25 of PDF. http://www.cbo.gov/ftpdocs/99xx/doc9925/12-18-HealthOptions.pdf
[56] Congressional Budget Office, "Budget Options, Volume 1: Health Care," December 2008, page 25 of PDF. http://www.cbo.gov/ftpdocs/99xx/doc9925/12-18-HealthOptions.pdf
[57] Baicker, Katherine and Chandra, Amitabh, "Myths and Misconceptions about U.S. Health Insurance," Health Affairs, 2008. http://content.healthaffairs.org/cgi/content/full/27/6/w533
[58] Gravelle, Jane. "Health Reform and Small Business," Congressional Research Service, April 8, 2010 (R40775). http://crs.gov/Pages/Reports.aspx?Source=cli&ProdCode=R40775#_Toc268786482
[59] Gravelle, Jane. "Health Reform and Small Business," Congressional Research Service, April 8, 2010 (R40775). http://crs.gov/Pages/Reports.aspx?Source=cli&ProdCode=R40775#_Toc268786482
[60] Gravelle, Jane. "Health Reform and Small Business," Congressional Research Service, April 8, 2010 (R40775). http://crs.gov/ReportPDF/R40775.pdf

Congressional Budget Office, Mr. Orzag said that "the economic evidence is overwhelming, the theory is overwhelming, that when your firm pays for your health insurance you actually pay through reduced take-home pay. The firm is not giving that to you for free. Your other wages or what have you are reduced as a result. I don't think most workers realize that."[61]

It is not difficult to see why the employer community is deeply concerned. Health care costs continue to climb. An employer penalty will reduce wages and jobs. It is clear that sections 1513 and 1003 of the health care overhaul will lead to lower wages and fewer jobs.

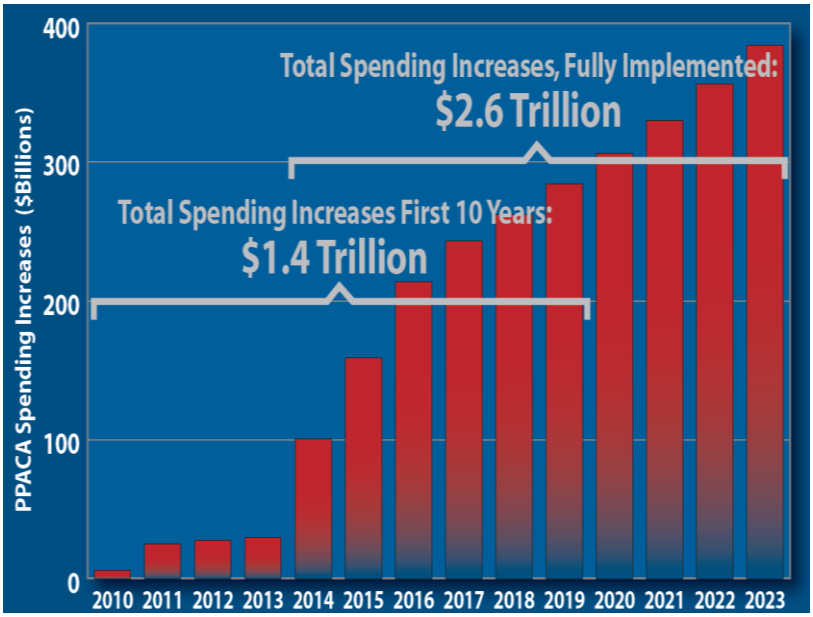
[61] Orszag, Peter. Testimony before the Senate Finance Committee, June 17, 2008, in his capacity as CBO Director.

Higher Spending, Rising Deficits

While proponents of the health care law argued it would reduce the deficit, in reality, the new law will blow a hole in the federal budget. Fewer than two in 10 Americans believe the health law will reduce the deficit, while more than six in 10 believe the overhaul will increase it.[62]

Americans have ample basis to doubt the massive, 2,700 pages of legislation will decrease the deficit. The authors of the overhaul purposefully ignored the looming problem of Medicare physician reimbursements that could have added more than $250 billion to the law's price tag and erased claims of deficit reduction.[63] More recently, the official Actuary of the Centers for Medicare and Medicaid Services concluded it is "implausible" to pretend Congress will not avert pending Medicare cuts – cuts that if reversed, would increase spending and could further inflate the deficit. As the Actuary noted, "current law would require physician fee reductions totaling an estimated 30 percent over the next 3 years—an implausible result."[64]

"True Costs" of Overhaul Much Larger



CBO usually evaluates the relative costs or savings under legislation within the specific timeframe of decade, or the immediate ten-year "budget window." The new law takes advantage of CBO methodology and is designed to downplay the true cost of the legislation. While taxes under the overhaul have already begun, the major insurance market changes are not effective until 2014. By effectively frontloading the tax increases and punting the largest insurance changes and spending increases to future years, the design of the overhaul masks the true costs of the health law. The chart nearby outlines how the raw spending in the health overhaul climbs dramatically in years to come.[65] Using official government numbers, the real cost of the overhaul – once fully implemented over the course of a decade – is revealed to cost taxpayers more than *two and a half trillion* dollars.[66]

Deficit Warnings from Budget Experts

Unfortunately, the health overhaul may well increase deficits and costs to federal taxpayers in the very near future. Doug Holtz-Eakin, who formerly served as CBO Director recently analyzed the legislation. Holtz-Eakin concluded the overhaul is "built on a shaky foundation of omitted costs, premiums shifted

---

[62] Rasmussen Reports, "Health Care Law", October 9, 2010. http://www.rasmussenreports.com/public_content/politics/current_events/healthcare/health_care_law; Congressional Budget Office, "Letter to Honorable Nancy Pelosi, Speaker of the U.S. House of Representatives," March 20, 2010. http://www.cbo.gov/ftpdocs/113xx/doc11379/AmendReconProp.pdf

[63] Coburn, Tom and Barrasso, John. *Bad Medicine: A Check-Up on the New Federal Health Law,* July 2010, page 22. http://coburn.senate.gov/public//index.cfm?a=Files.Serve&File_id=722faf8b-a5be-40fd-a52b-9a98826c1592.

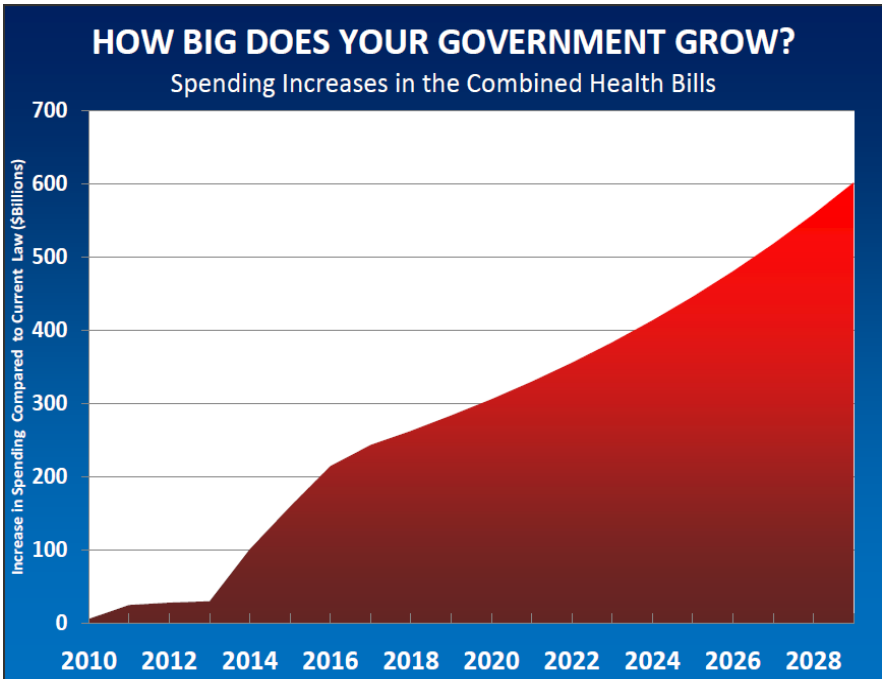
[64] Shatto, John, and Clemens, Kent. "Projected Medicare Expenditures under an Illustrative Scenario with Alternative Payment Updates to Medicare Providers," August 5, 2010. http://www.cms.gov/ActuarialStudies/Downloads/2010TRAlternativeScenario.pdf

[65] U.S. Senate Budget Committee, Republican Staff. http://budget.senate.gov/republican/pressarchive/2010-03-23BudgetPerspective.pdf

[66] U.S. Senate Budget Committee, Republican Staff. http://budget.senate.gov/republican/pressarchive/2010-03-23BudgetPerspective.pdf, see nearby chart

from other entitlements, and politically dubious spending cuts and revenue increases."[67] Mr. Holtz-Eakin suggested "a more comprehensive and realistic projection suggests that the new reform law will *raise the deficit by more than $500 billion during the first ten years* and by nearly $1.5 trillion in the following decade."[68]

Even the nonpartisan CBO effectively put a big asterisk on their official price tag of the overhaul. In analyzing the law, CBO carefully highlighted a few "key considerations" for Congress, pointing out that future deficit reduction projected under the law depended on "a number of policies that might be difficult to sustain over a long period of time."[69] CBO warned that the "long-term budgetary impact could be quite different if key provisions of the legislation were ultimately changed or not fully implemented."[70] CBO also identified tens of billions of additional dollars that may be spent by the federal government as a result of new programs and mandates in the health overhaul.[71]



When evaluating budgetary claims about this legislation, Americans should consider Congress' poor record of exercising fiscal restraint. Since the passage of the federal health care overhaul, Congress has added more than $110 billion to the deficit by waiving mandatory PAY-GO rules that would otherwise require Congress to pay for new spending.[72] In little more than six months, Congress has nearly surpassed the supposed savings the legislation proponents say it will provide over the coming decade.

Official estimates have already shown that health care spending will increase under the law.[73] Deficits could climb dangerously as well. Just two hundred days since its enactment, the reality is that the federal health care overhaul is on track to send federal spending skyrocketing and cause already perilously-large deficits to grow even bigger.

---

[67] Holtz-Eakin, Doug, and Ramlet, Michael. "Health Care Reform And Federal Budget Deficits: Likely To Broaden The Gap, Not Reduce It," Health Affairs, June 2010. http://americanactionforum.org/files/Health%20Affairs_Holtz-Eakin%20and%20Ramlet_Final.pdf

[68] Holtz-Eakin, Doug, and Ramlet, Michael. "Health Care Reform And Federal Budget Deficits: Likely To Broaden The Gap, Not Reduce It," Health Affairs, June 2010. http://americanactionforum.org/files/Health%20Affairs_Holtz-Eakin%20and%20Ramlet_Final.pdf

[69] Congressional Budget Office, "Letter to Honorable Nancy Pelosi, Speaker of the U.S. House of Representatives," March 20, 2010. http://www.cbo.gov/ftpdocs/113xx/doc11379/AmendReconProp.pdf, page 14 of PDF

[70] Congressional Budget Office, "Letter to Honorable Nancy Pelosi, Speaker of the U.S. House of Representatives," March 20, 2010. http://www.cbo.gov/ftpdocs/113xx/doc11379/AmendReconProp.pdf, page 14 of PDF

[71] Congressional Budget Office, "Letter to The Honorable Jerry Lewis, Ranking Member on U.S. House Committee on Appropriations," March 20, 2010. http://www.cbo.gov/ftpdocs/114xx/doc11490/LewisLtr_HR3590.pdf; Congressional Budget Office, "Additional Information on the Potential Discretionary Costs of Implementing the Patient Protection and Affordable Care Act," May 2010. http://www.cbo.gov/ftpdocs/114xx/doc11493/Additional_Information_PPACA_Discretionary.pdf

[72] On April 14, 2010, the Senate voted 60-40 to waive PAYGO on a two-month extension of Unemployment Insurance, COBRA, Physician payments, and other subsidies (H.R. 4851), at a total cost of $18.1 billion. On May 28, 2010, the Senate failed to comply with PAYGO when it approved H.R. 4899, the Supplemental Appropriations Act, at a total cost of $59 billion. On June 21, 2010, the Senate failed to comply with PAYGO when it approved the Unemployment Compensation Extension Act of 2010, at a total cost of $34 billion. Further information available at www.coburn.senate.gov

[73] Sisko et al. "National Health Spending Projections: The Estimated Impact Of Reform Through 2019," Health Affairs, September 9, 2010. http://content.healthaffairs.org/cgi/content/abstract/hlthaff.2010.0788v1

Washington Mandates
Send State Costs Skyrocketing

Today, many states are experiencing budget shortfalls, and some are in precarious financial situations. The state of California faces a $19 billion deficit.[74] Wisconsin faces an upcoming $2.7 billion budget gap.[75] Washington state faces a $3.3 budget shortfall for the coming two fiscal years.[76] In Georgia, according to local media coverage, "without changes in taxes or spending policies, annual deficits of $1.5 billion to $2.1 billion" are expected for the near future.[77]

Unfortunately, the outlook is not expected to improve much in the near future. According to the U.S. Census Bureau data, state and local government tax receipts rose only slightly in the last quarter.[78] As the *Wall Street Journal* concluded, "the slow revival of tax revenue suggests budgets and spending will remain tight through this year and beyond."[79]

During these challenging economic times, when states are still grappling with difficult budget situations, a provision in the health care law increases costs to states by billions of dollars. The expansion of the costly Medicaid program, as well as a host of other mandates, shifts billions of dollars onto state taxpayers, leaving state legislatures and governors stuck holding the tab.

Even After "Cornhusker Kickback" Debate, State Costs Still Increase

Of the sweetheart deals that greased the process for the health care overhaul to slide through Congress, perhaps none is as famous as the Section 10201 in the Senate-passed Patient Protection and Affordable Care Act. Described as the "Cornhusker Kickback," this Section granted the State of Nebraska special treatment. Under Section 10201, federal taxpayers would absorb the full $100 million cost for the Medicaid expansion in Nebraska.[80] But in every other state, state taxpayers would bear significant costs for the expansion of Medicaid in their own state.

Indeed, a number of Governors expressed concern publicly about "unfunded mandates" on states in the form of a Medicaid expansion. Because the health program for low-income Americans is funded by both the federal and state governments, expanding the program would dramatically increase costs for states. Governor Phil Bredesen of Tennessee said he

---

[74] Lin, Judy. "Calif. budget impasse about to become longest ever," Associated Press, September 15, 2010. http://www.google.com/hostednews/ap/article/ALeqM5jJ7uUDlO1sEo7K7bEfHpj4G7wuLQD9I8JU3G0

[75] Spicuzza, Mary. "State Deficit Looms Over Candidates' Vows To Spur Growth," Wisconsin State Journal, September 21, 2010. http://host.madison.com/wsj/news/local/govt-and-politics/elections/article_1330169e-c403-11df-b61f-001cc4c002e0.html

[76] Garber, Andrew. "State Budget Likely To Go From Bad to Much Worse," Seattle Times, Olympia bureau, September 11, 2010. http://seattletimes.nwsource.com/html/localnews/2012873178_budget12m.html

[77] Salzer, James. "State Deficit Challenges Candidates' School Plans," The Atlanta Journal-Constitution, August, 1, 2010. http://www.ajc.com/news/georgia-politics-elections/state-deficit-challenges-candidates-582864.html

[78] U.S. Census Bureau, "Quarterly Summary of State and Local Government Tax Revenue," September 27, 2010. http://www2.census.gov/govs/qtax/information_sheet.pdf

[79] Dougherty, Conor. "State and Local Tax Revenue Inches Up," The Wall Street Journal, September 29, 2010. http://online.wsj.com/article/SB10001424052748703694204575518210026268450.html

[80] H.R. 3590, "The Patient Protection and Affordable Care Act," as passed by the Senate on December 24, 2009, pg. 801. http://democrats.senate.gov/reform/patient-protection-affordable-care-act-as-passed.pdf.

worried Congress was close to passing "the mother of all unfunded mandates."[81] Governor Christine Gregoire of Washington said her concern was that if there was a "cost-shift to the states, we're not going to be in a position to pick up the tab."[82] Governor Brian Schweitzer of Montana was perhaps the clearest when he said: "governors are concerned about unfunded mandates, another situation where the federal government says you must do x and you must pay for it."[83] Nebraska Governor Dave Heineman warned the federal health law put the "future of education spending" in jeopardy in a letter to state education groups.[84] And recently, Nevada gubernatorial contender Rory Reid warned that "there is potential for [the new health law] to put significant pressure on states because Medicaid rates could go up significantly."[85]

Perhaps in an attempt to reduce a swell of concern from state governors and or to squelch criticism about the lack of transparency in the process, President Obama publicly called for the elimination of the Cornhusker Kickback and that provision was removed.[86] Now, under the law, the federal government will pay about 90 percent of the costs for the newly eligible Medicaid population, at a cost of $20 billion to federal taxpayers.[87] This change removes some costs from states, but it does not eliminate all the additional costs states must absorb because of the law.

State Taxpayers Face Huge Costs From Mandates

Earlier this spring before the passage of the health overhaul, the Congressional Budget Office (CBO) estimated that "state spending on Medicaid" would increase by tens of billions of dollars "as a result of the coverage provisions."[88] In pegging the costs to states, they noted that "under current law, states have the flexibility to make programmatic and other budgetary changes to Medicaid and the Children's Health Insurance Program."[89] But now that the health overhaul has been signed into law, states are stuck with federal mandates buried in the law that dictate many of the operations of the state-level Medicaid programs.

So how big are the costs state taxpayers must absorb from the massive Medicaid expansion or other mandates? A nearby chart lists estimates that several governors produced calculating the costs to their states – primarily from the Medicaid program. While the federal government may cover $30 billion of costs, the State of Texas alone estimates their state will face $27 billion in extra costs.[90] Looking at these estimates, it is clear that the extra costs forced upon state taxpayers and state governments could climb into the hundreds of billions of dollars. While base data and calculations may vary, the total costs to state

---

[81] Sack, Kevin, and Pear, Robert. "Governors Fear Medicaid Costs in Health Plan," The New York Times, July 19, 2009. http://www.nytimes.com/2009/07/20/health/policy/20health.html?hp

[82] Sack, Kevin, and Pear, Robert. "Governors Fear Medicaid Costs in Health Plan," The New York Times, July 19, 2009. http://www.nytimes.com/2009/07/20/health/policy/20health.html?hp

[83] Gomez, Serafin. "Many Governors Against Health Care Bill, Label It Unfunded Mandate," FOX News, July 19, 2009. http://www.foxnews.com/politics/2009/07/19/governors-health-care-label-unfunded-mandate/

[84] Hicks, Nancy. "Dave Heineman Urges Nebraska Education Groups to Fight Health Reform," Lincoln Journal Star, August 27, 2010. http://journalstar.com/news/local/education/article_55cb11d6-b218-11df-ad9d-001cc4c03286.html

[85] Starkey, Melanie. "Rory Reid Warns That Health Care Law Poses Risk to Nevada," Roll Call, October 8, 2010. http://www.rollcall.com/news/50596-1.html

[86] President Barack H. Obama, "The President's Proposal," The White House, February 22, 2010, page 1. http://www.whitehouse.gov/sites/default/files/summary-presidents-proposal.pdf

[87] Congressional Budget Office, "Letter to Honorable Nancy Pelosi, Speaker of the U.S. House of Representatives," March 20, 2010. http://www.cbo.gov/ftpdocs/113xx/doc11379/AmendReconProp.pdf, Look at *Table 4. Estimated Effects of the Insurance Coverage Provisions of the Reconciliation Proposal Combined with H.R. 3590 as Passed by the Senate.* See footnote C: *…CBO estimates that state spending on Medicaid and CHIP in the 2010-2019 period would increase by about $20 billion as a result of the coverage provisions."*

[88] Congressional Budget Office, "Letter to the Honorable Harry Reid, U.S. Senate Majority Leader," March 11, 2010. http://www.cbo.gov/ftpdocs/113xx/doc11307/Reid_Letter_HR3590.pdf . CBO budget

[89] Congressional Budget Office, "Letter to the Honorable Harry Reid, U.S. Senate Majority Leader," March 11, 2010. http://www.cbo.gov/ftpdocs/113xx/doc11307/Reid_Letter_HR3590.pdf

[90] Suehs, Thomas. Executive Commissioner of the Texas Health and Human Services Commission, presentation to Texas House Select Committee on Federal Legislation on the impact of federal health care reform on Texas Health and Human Services, April 22, 2010. http://www.hhsc.state.tx.us/news/presentations/2010/HouseSelectFedHlthReform.pdf

taxpayers across the nation could easily range in the hundreds of billions of dollars.[91] These costs to state governments and taxpayers may not have been fully calculated by CBO, but they nonetheless are real costs that must be borne by American taxpayers.

Another analysis focused on just 21 states found that expanding Medicaid would cost each state "an estimated $2.3 billion to $6.8 billion per year."[100] Other costs identified in the report are the "expansion-related administrative costs, beginning in 2014, which are projected to cost $11.9 billion for all 50 states through 2019." Administrative costs are not to be underestimated. According to a recent *Health Affairs* report, costs related to the creation and administration of federally-mandated health care exchanges could add a total of $37.7 billion to taxpayers burden through 2019.[101]

STATE ESTIMATES: EXTRA MEDICAID COSTS	
State	**10-Year Costs**
North Dakota	$1.1 billion[92]
Texas	$27 billion[93]
Indiana	$3.6 billion[94]
Virginia	$1.5 billion[95]
Louisiana	$7.1 billion[96]
Nebraska	$766 million[97]
Oklahoma	$441 million[98]
Mississippi	$250 million[99]
COMBINED:	**$41.7 BILLION**

Governors and State Legislators Face Hard Choices

During the health care debate last December, Mississippi Governor Haley Barbour warned that "unfunded mandates would necessarily cause states to raise taxes or cut vital services like education and law enforcement."[102] Now, with the health care proposal the law of the land, state governors and legislatures are starting to face tough choices.

The choices states face are indeed difficult. A survey from last December of state governments shows that the budget crisis states face is nearly unparalleled. According to the survey, in the 2010 budget, 31 states cut personnel, 30 states cut K-12 education and higher education, 25 states cut transportation budgets, and 22 states cut public assistance programs.[103] Now governors and legislatures must effectively decide what education programs or public infrastructure works will be cut even further. We support ensuring low-income Americans can access affordable health coverage, but massive federal mandates that lead to skyrocketing state costs is the wrong prescription.

---

[91] This estimate extrapolates individual states' costs based on the state's population as a percentage of the total U.S. population.
[92] Damler, Robert. "Patient Protection and Affordable Care Act With House Reconciliation – Financial Analysis," Milliman, Inc., August 16, 2010.
http://www.governor.nebraska.gov/news/2010/08/pdf/Nebraska%20Medicaid%20PPACA%20Fiscal%20Impact.pdf
[93] Combs, Susan, "Diagnosis : Cost – An Initial Look at the Federal Health Care Legislation's Impact on Texas," Texas Comptroller of Public Accounts, page 16.
http://www.window.state.tx.us/specialrpt/healthFed/hr3590Cost.pdf
[94] Bradner, Eric. "Health Reform Could Leave Indiana On Hook For Billions," Evansville Courier and Press, May 13, 2010.
http://www.courierpress.com/news/2010/may/13/state-may-be-on-hookfor-billions/?print=1;
Daniels, Mitch. "Health Reform And The States," Office of The Governor of Indiana, The American Enterprise Institute, presentation, June 15, 2010.
http://www.aei.org/docLib/Daniels.pdf;
Bradner, Eric. "Health Care Law Will Cost Indiana $3.6 Billion Over 10 Years, Actuary Says," Indiana Economic Digest, May 12, 2010.
http://www.indianaeconomicdigest.net/main.asp?SectionID=31&SubSectionID=135&ArticleID=54261
[95] Flook, William C. "McDonnell: Obamacare Will Cost Virginia $1.5 Billion," The Washington Examiner, May 18, 2010.
http://www.washingtonexaminer.com/local/McDonnell-ups-Obama-health-overhaul-cost-to-_1_5-billion-93988944.html
[96] Levine, Alan. "Louisiana Impact Estimate of Federal Health Care Reform 2010," Summer 2010, slide 8.
http://www.dhh.louisiana.gov/offices/publications/pubs-81/Presentation.pdf.
[97] Heineman, Dave. "Federal Health Care Medicaid Expansion To Cost Nebraska $526 to $766 Million," Office of The Governor of Nebraska, release, August 18, 2010.
http://www.governor.nebraska.gov/news/2010/08/18_medicaid_expansion.html
[98] Estimate furnished to Office of U.S. Senator Tom Coburn, M.D., by senior policy staff of Oklahoma Health Care Authority.
http://coburn.senate.gov/public/index.cfm?a=Files.Serve&File_id=090ae988-ecb2-41f2-b118-1edce9b978d1
[99] Meerschaert, John D. "Financial Impact Review of the Patient Protection and Affordable Care Act As Amended by H.R. 4782, The Reconciliation Act of 2010 On the Mississippi Medicaid Budget ," Milliman, Inc., October 1, 2010.
http://www.governorbarbour.com/news/2010/oct/10.08.10%20Impact%20of%20Health%20CareReform%20on%20MS%20Medicaid%20Bud_1.pdf
[100] Coburn, Tom. Document available, October 2010. www.coburn.senate.gov
[101] Sisko et al. "National Health Spending Projections: The Estimated Impact Of Reform Through 2019," Health Affairs, September 9, 2010.
http://content.healthaffairs.org/cgi/content/full/hlthaff.2010.0788v1
[102] Barbour, Governor Haley. "Healthcare Legislation Catastrophic to State Budgets," Republican Governors Association, December 18, 2009.
http://www.rga.org/homepage/gov-barbour-healthcare-legislation-catastrophic-to-state-budgets/
[103] Barbour, Governor Haley. "Healthcare Legislation Catastrophic to State Budgets," Republican Governors Association, December 18, 2009.
http://www.rga.org/homepage/gov-barbour-healthcare-legislation-catastrophic-to-state-budgets/

Increasing ER Wait Times, Costs

One of the cost-savings arguments used by proponents of the health care law was that expanding health coverage to 30 million previously uninsured Americans would reduce "uncompensated care costs" due to things like emergency room visits. Experts generally agree that a contributing factor to increasing insurance premiums is that uninsured people do not pay the full cost of their emergency care. Instead, the costs of uncompensated care are shifted to Americans with health coverage, ultimately resulting in higher premiums for businesses and families.

Supporters of the legislation suggest that Americans without health insurance only seek health care in a hospital's emergency room (ER) or emergency department, where federal law mandates that everyone receive basic treatment. They cited figures that estimate an average American family with private insurance pays an additional $1,017 in premiums each year to pay the cost of uncompensated care.[104]

President Obama repeated this line of reasoning, saying "the insurance reforms rest on everybody having access to coverage … taxpayers currently end up subsidizing the uninsured when they're forced to go to the emergency room for care, to the tune of about a thousand bucks per family. You can't get those savings if those people are still going to the emergency room."[105]

The problem is that under the new overhaul, ER wait times and costs are will not be eliminated. In fact, overall costs, as well as ER costs and wait times, are on track to increase even further.

National spending on health care will increase because as more Americans gain health care coverage, they will use more health care services. The Actuary of the Centers for Medicare and Medicaid Services (CMS) found that the national spending will increase by more than $310 billion in the first decade alone, in part because of "greater utilization of health care services by individuals becoming newly covered (or having more complete coverage."[106]

But uncompensated care costs certainly will not be eliminated. The Congressional Budget Office (CBO) estimated that at the end of a ten-year period, there will still be at least 23 million individuals without health insurance.[107] So, uncompensated care costs will not be eradicated, as individuals will seek care in hospital ERs across the country.[108]

The new law dramatically expands the Medicaid program, a federal-state insurance program offering coverage to low-income Americans. Under the law, more than 16 million Americans will be enrolled in Medicaid.[109] In part because Medicaid patients are denied access to roughly half of physicians, patients on Medicaid use hospital ERs more frequency than uninsured patients. According to the Centers for Disease Control and Prevention's most recent report on nationwide ER use, Medicaid patients accounted

---

[104] Families USA, "Hidden Health Tax: Americans Pay a Premium," 2009. http://www.familiesusa.org/assets/pdfs/hidden-health-tax.pdf

[105] [105] President Barack H. Obama, "Remarks by the President on Health Care Reform," The White House, March 3, 2010. http://www.whitehouse.gov/the-press-office/remarks-president-health-care-reform

[106] Foster, Richard. "Estimated Financial Effects of the 'Patient Protection and Affordable Care Act of 2009,' as Amended." Office of the Actuary, Centers for Medicare and Medicaid Services, April 22, 2010

[107] http://www.cbo.gov/ftpdocs/113xx/doc11379/AmendReconProp.pdf, page 21 of PDF.

[108] Additionally, as we noted in our previous report, Americans may still be paying hundreds of dollars in hidden costs to subsidize the health care costs of illegal immigrants. Coburn, Tom and Barrasso, John. *Bad Medicine: A Check-Up on the New Federal Health Law,* July 2010, page 27. http://coburn.senate.gov/public//index.cfm?a=Files.Serve&File_id=722faf8b-a5be-40fd-a52b-9a98826c1592,

[109] Congressional Budget Office, "Letter to Honorable Nancy Pelosi, Speaker of the U.S. House of Representatives," March 20, 2010. http://www.cbo.gov/ftpdocs/113xx/doc11379/AmendReconProp.pdf, page 21 of PDF.

for 25 percent of all ER visits during the year.[110] With 16 million additional Americans in Medicaid, Americans could be paying hundreds of dollars more each year for the new Medicaid patients who will use the ER frequently.

Another analysis of Medicaid and ER use has found that costs and wait times will increase because of the overhaul. Former CBO director, Doug Holtz-Eakin, recently concluded the federal overhaul is "likely to dramatically expand the use of emergency room care" by Medicaid patients and increase the overhaul costs in our nation's health care system.[111] Under the new law, Medicaid patients will "generate 68 million visits [to ERs] and add $36 billion to the nation's health care bill," the analysis concluded. [112]

Health care practitioners reach a similar conclusion. According to a recent national survey of emergency physicians, seven in 10 of responding physicians expect ER visits to increase under the new law.[113] The same percentage of physicians say their ER is *already overcrowded* at least half the week, so it is unsurprising that half of responding physicians also anticipate conditions under the new law will worsen for ER patients. [114]

Massachusetts: A Cautionary Tale

Despite Massachusetts having passed health care reform legislation in 2006, thousands of state-subsidized patients with the lowest incomes still used ERs at a rate a third higher than the state average.[115] This is an expensive pattern which drives up health care costs for privately insured citizens in Massachusetts. The average charge for treating a non-emergency illness in the ER is $976, while it costs between $84 and $164 to treat a typical ailment in a primary care doctor's office.[116] Emergency physicians identified a lack of primary care physicians as one major reason patients still flooded the ERs for routine care. Years after "reform," newly insured patients in Massachusetts were still waiting months for their first visits.[117] An examination of the data leads one to conclude that under the federal health care overhaul, all Americans might be waiting longer and paying more for care in the ER.

---

[110] Garcia, Tamyra; Bernstein, Amy; and Bush, Mary Ann. "Emergency Department Visitors and Visits: Who Used the Emergency Room in 2007?" National Center for Health Statistics, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, May 2010. http://www.cdc.gov/nchs/data/databriefs/db38.pdf

[111] Holtz-Eakin, Doug, and Ramlet, Michael. "Health Care Reform and Medicaid: Patient Access, Emergency Department Use, and Financial Implications for States and Hospitals," American Action Forum, September 2010. http://americanactionforum.org/files/HCR_Medicaid.pdf

[112] Holtz-Eakin, Doug, and Ramlet, Michael. "Health Care Reform and Medicaid: Patient Access, Emergency Department Use, and Financial Implications for States and Hospitals," American Action Forum, September 2010. http://americanactionforum.org/files/HCR_Medicaid.pdf

[113] American College of Emergency Physicians, "More Than Two-Thirds of Emergency Physicians Expect ER Visits to Increase Despite National Health Care Reform," press release, May 17, 2010. http://www.acep.org/pressroom.aspx?id=48442

[114] American College of Emergency Physicians, "More Than Two-Thirds of Emergency Physicians Expect ER Visits to Increase Despite National Health Care Reform," press release, May 17, 2010. http://www.acep.org/pressroom.aspx?id=48442

[115] Lazar, Kay. "Costly ER Still Draws Many Now Insured," The Boston Globe, October 6, 2008. http://www.boston.com/news/health/articles/2008/10/06/costly_er_still_draws_many_now_insured/

[116] Lazar, Kay. "Costly ER Still Draws Many Now Insured," The Boston Globe, October 6, 2008. http://www.boston.com/news/health/articles/2008/10/06/costly_er_still_draws_many_now_insured/

[117] Lazar, Kay. "Costly ER Still Draws Many Now Insured," The Boston Globe, October 6, 2008. http://www.boston.com/news/health/articles/2008/10/06/costly_er_still_draws_many_now_insured/

Risky Insurance "Scheme" To Cost Taxpayers

What Is The CLASS Program And How Does It Work?

Section 8002 created the Community Living Assistance Services and Supports program (CLASS), a "voluntary federal program for long-term care insurance that would be administered by the Secretary of Health and Human Services (HHS)."[118] Unlike traditional health insurance that covers medical benefits, long-term insurance generally covers services that assist individuals in their day-to-day activities of life, such as bathing, eating, or dressing. Under the program, CBO said "premiums would vary only according to the enrollee's age when he or she enters the program. Once enrolled, an individual's premium would generally remain the same for as long as that individual remained in the program."[119] To receive benefits from the program, the participating individual must have paid into the program for five years and met certain requirements.

While the purpose sounds good, the CLASS program is misguided policy. The financial structure of the program is so shaky it could require a taxpayer-funded bailout while saddling taxpayers with mountains of debt.

Unfortunately, CLASS is being used as a budget trick to raise the amount of money the health care overhaul will have to spend. As the *Washington Post* said bluntly, the CLASS provision was simply a budget "gimmick" that was "designed to pretend that health reform is fully paid for."[120]

The *Post* explained: "premiums would flow into the system beginning in 2011, but benefits would not begin to be paid out until five years later; consequently, over the 10-year budget window through which the Congressional Budget Office assesses legislation, the program would bring in $58 billion, according to CBO estimates."[121] However, as the *Post* pointed out, "the money that flows in during the 10-year budget window will flow back out again. These are not 'savings' that can be honestly counted on the balance sheet of reform."[122]

CLASS Program Criticized By Budget Experts

According to the Congressional Budget Office (CBO), this provision could "add to budget deficits …. in succeeding decades – by amounts on the order of tens of billions of dollars for each 10-year period."[123] The problems with the structure of the program are so systemic that the American Academy of Actuaries

---

[118] Congressional Budget Office, "Letter to The Honorable Tom Harkin, Chairman of the U.S. Senate Committee on Health, Education, Labor, and Pensions," November 25, 2009.http://www.cbo.gov/ftpdocs/108xx/doc10823/CLASS_Additional_Information_Harkin_Letter.pdf

[119] Congressional Budget Office, "Letter to The Honorable Tom Harkin, Chairman of the U.S. Senate Committee on Health, Education, Labor, and Pensions," November 25, 2009.http://www.cbo.gov/ftpdocs/108xx/doc10823/CLASS_Additional_Information_Harkin_Letter.pdf

[120] The Washington Post, "How Not Fix Health Care," Editorial, July 10, 2009. http://www.washingtonpost.com/wp-dyn/content/article/2009/07/09/AR2009070902607_pf.html

[121] The Washington Post, "How Not Fix Health Care," Editorial, July 10, 2009. http://www.washingtonpost.com/wp-dyn/content/article/2009/07/09/AR2009070902607_pf.html

[122]The Washington Post, "How Not Fix Health Care," Editorial, July 10, 2009. http://www.washingtonpost.com/wp-dyn/content/article/2009/07/09/AR2009070902607_pf.html

[123] Congressional Budget Office, "Letter to The Honorable Tom Harkin, Chairman of the U.S. Senate Committee on Health, Education, Labor, and Pensions," November 25, 2009. http://www.cbo.gov/ftpdocs/108xx/doc10823/CLASS_Additional_Information_Harkin_Letter.pdf

concluded "an actuarially sound program may not be possible to achieve" despite changes that might be sought.[124]
In fact, the financial structure for this new provision is so untenable that one Senator who voted for the health care overhaul called it "a Ponzi scheme of the first order, the kind of thing that Bernie Madoff would have been proud of."[125] The CLASS program could effectively self-destruct for several reasons.

First, Section 8002 created a trust fund. Most insurance trust funds normally are used to stash premiums and grow them into large reserves that pay benefits and cover program liabilities. However, as others have pointed out, premiums paid into the CLASS trust fund are not required to be stashed away to build reserves for paying out future benefits. Instead, HHS will immediately send the incoming dollars back out the door to pay for benefits, starting as soon as 2016.

Supporters of the program will point out that under the law, the Secretary of HHS is required to set premiums at a level to ensure the program's long term sustainability. Supporters of the program might point to CBO's finding that HHS "would invest CLASS program premium receipts in federal securities and would incorporate that expected income into calculations of appropriate premiums to charge." [126]

But such optimism would be misplaced. As CBO pointed out, "trust fund income from investments in federal securities would be an intragovernmental transfer within the federal budget. As a result, from a budget scorekeeping perspective, the CLASS program would *inevitably add to future deficits*…. by more than it reduces deficits in the near term, *even though the premiums would be set to ensure solvency of the program*."[127]

A second problem with the program is that CBO determined that the "CLASS program could be subject to considerable financial risk in the future if it were unable to attract a sufficiently healthy group of enrollees."[128] Unfortunately, CBO also found this is a likely outcome, saying "attracting healthy enrollees could be challenging for several reasons."[129] Because the law requires the CLASS program to enroll all eligible individuals who apply, CBO said it is "likely that some enrollees would be people who were unable to obtain coverage in the private market because of their poor health status." [130] So, with a higher percentage of the CLASS program participants consisting of individuals who are sicker and more needy – and therefore cost more to care for – CBO concluded the "relatively small enrollment would increase the risk of adverse selection and could undermine the long-run stability of the program." [131]

---

[124] American Academy of Actuaries, "Community Living Assistance Services and Supports Act," Critical Issues in Health Reform, November 2009. http://www.actuary.org/pdf/health/class_nov09.pdf
[125] Lori Montgomery, "Proposed Long-Term Health Insurance Program Raises Questions," The Washington Post, October 27, 2009. http://www.washingtonpost.com/wp-dyn/content/article/2009/10/27/AR2009102701417.html.
[126] Congressional Budget Office, "Letter to The Honorable Tom Harkin, Chairman of the U.S. Senate Committee on Health, Education, Labor, and Pensions," November 25, 2009. http://www.cbo.gov/ftpdocs/108xx/doc10823/CLASS_Additional_Information_Harkin_Letter.pdf
[127] Congressional Budget Office, "Letter to The Honorable Tom Harkin, Chairman of the U.S. Senate Committee on Health, Education, Labor, and Pensions," November 25, 2009. http://www.cbo.gov/ftpdocs/108xx/doc10823/CLASS_Additional_Information_Harkin_Letter.pdf
[128] Congressional Budget Office, "Letter to The Honorable Tom Harkin, Chairman of the U.S. Senate Committee on Health, Education, Labor, and Pensions," November 25, 2009. http://www.cbo.gov/ftpdocs/108xx/doc10823/CLASS_Additional_Information_Harkin_Letter.pdf
[129] Congressional Budget Office, "Letter to The Honorable Tom Harkin, Chairman of the U.S. Senate Committee on Health, Education, Labor, and Pensions," November 25, 2009. http://www.cbo.gov/ftpdocs/108xx/doc10823/CLASS_Additional_Information_Harkin_Letter.pdf
[130] Congressional Budget Office, "Letter to The Honorable Tom Harkin, Chairman of the U.S. Senate Committee on Health, Education, Labor, and Pensions," November 25, 2009. http://www.cbo.gov/ftpdocs/108xx/doc10823/CLASS_Additional_Information_Harkin_Letter.pdf
[131] Congressional Budget Office, "Letter to The Honorable Tom Harkin, Chairman of the U.S. Senate Committee on Health, Education, Labor, and Pensions," November 25, 2009. http://www.cbo.gov/ftpdocs/108xx/doc10823/CLASS_Additional_Information_Harkin_Letter.pdf

The Chief Actuary of the Centers for Medicare and Medicaid Services issued a similar warning earlier this year about the long-term financial threat the CLASS program poses. The Actuary expects that "in 2025 and later, projected benefits exceed premium revenues, resulting in a net federal cost in the long term."[132] But the problems with the CLASS program cannot be rectified by mere administrative tweaks. "In general," the Actuary concluded, "voluntary, unsubsidized, and non-underwritten insurance programs such as CLASS face a significant risk of failure as a result of adverse selection by participants."[133] Because of the downward spiral created by adverse selection, HHS could be forced to severely increase premiums for enrollees to unaffordable levels—which could effectively end participation in the program—or taxpayers could be asked to fund another bailout a government-backed enterprise.

Supporters of Health Care Bill Criticize CLASS

Even Members of Congress who voted for the health care legislation have come forward with a variety of concerns with the provision. One Senator said the CLASS provision "will be financially upside down in a very short period of time, [and] needs to be out of the bill."[134]

As *Politico* reported, this same Senator joined six other Senators—all who also *supported* the health overhaul—in sending a letter to the Majority Leader "asking him not to include the class act" in the overhaul, because "they are concerned the provision would increase long-term deficits."[135] In the letter, the Senators said they had "grave concerns that the real effect of the provisions would be to create a new federal entitlement with large, long-term spending increases that far exceed revenues."[136] And late last year, twelve Senate Democrats – most of whom supported the health care overhaul – even voted to remove the CLASS provision from the new law.[137] However, despite their public comments, the provision remained in the health care bill –and is now the law of the land.

Despite its design being soundly criticized by nonpartisan budget experts and even politicians who supported the health care overhaul, CLASS is now the law of the land. Unfortunately, the Chairman of the Budget Committee was right: the CLASS provision is indeed "a Ponzi scheme of the first order."[138] Supporters of the overhaul should be embarrassed that the new law uses a budget gimmick to appear to offset new spending, while it will likely expose taxpayers to tens of billions of dollars of loss when the program eventually collapses.

---

[132] Foster, Richard. "Estimated Financial Affects of the 'America's Affordable Health Choices Act of 2009' (HR 3962) as Passed By the House on November 7, 2009." Office of the Actuary, Centers for Medicare and Medicaid Services, November 13, 2009. http://republicans.waysandmeans.house.gov/UploadedFiles/OACT_Memorandum_on_Financial_Impact_of_H_R__3962__11-13-09_.pdf#page=11

[133] Foster, Richard. "Estimated Financial Effects of the 'Patient Protection and Affordable Care Act of 2009,' as Amended." Office of the Actuary, Centers for Medicare and Medicaid Services, April 22, 2010. http://s3.amazonaws.com/thf_media/2010/pdf/OACT-Memo-FinImpactofPPACA-Enacted.pdf

[134] Sen. Ben Nelson, Fox News' "On The Record," December 1, 2009.

[135] Budoff Brown, Carrie. "Mods Say No to CLASS Act," Politico Pulse, October 28, 2009. http://www.politico.com/livepulse/1009/Mods_say_no_to_CLASS_act_.html

[136] Stephanie Condon, "Moderate Senators Oppose Long Term Health Care Proposal," CBS News, October 28, 2009, at *http://www.cbsnews.com/8301-503544_162-5439102-503544.html* (July 21, 2010).

[137] U.S. Senate. S. Amdt. 2901 to S. Amdt. 2786 to H.R. 3590, with the purpose "to eliminate new entitlement programs and limit the government control over the health care of American families." http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=1&vote=00360

[138] Lori Montgomery, "Proposed Long-Term Health Insurance Program Raises Questions," The Washington Post, October 27, 2009. http://www.washingtonpost.com/wp-dyn/content/article/2009/10/27/AR2009102701417.html.

Medicare Outlook Growing Worse

Medicare began running a cash flow deficit in 2008. To date, Medicare's total long-term unfunded liabilities total in the tens of trillions of dollars – a gap so big that politicians have no idea of how to resolve it. The federal health overhaul made the prognosis worse by taking nearly $530 million from Medicare to spend on new government programs.

In a December 2009 letter to Senator Sessions, the Congressional Budget Office (CBO) said that the appearance of savings to the Medicare program was because the Medicare trust fund is "essentially an accounting mechanism."[139] Cuts to Medicare are effectively double-counted, giving the *appearance* of extending Medicare's solvency while actually being used to pay for the cost of the new law.

CBO has not only challenged claims of Medicare savings – it has undermined them.[140] The conclusion from the Director of CBO is that the cuts to Medicare cannot "pay for future Medicare spending [and therefore increase its solvency] and, at the same time, pay for current spending on other parts of the legislation…"[141]

The Chief Actuary of the Centers for Medicare and Medicaid Services (CMS), Richard Foster, echoed CBO, stating plainly that the reduced spending resulting from the significant Medicare cuts in the new health care law, "cannot be simultaneously used to finance other Federal outlays (such as coverage expansions) and to extend the trust fund." In a more recent analysis, the Actuary reiterated that the Medicare "fund is still not adequately financed over the next 10 years."[142]

In his most recent report on the financial health of Medicare, the CMS Chief Actuary outlined alternate financial scenarios for Medicare, drawing attention to the negative impact to the program under the federal health overhaul. The Actuary concluded that projected savings are not likely to materialize. He judged there is a strong "likelihood that certain of these changes will not be viable in the long range" because "the financial projections shown in [the official] report for Medicare do not represent a reasonable expectation for actual program operations in either the short range … or the long range."[143]

In fact, if the Medicare reimbursement cuts in the law were allowed to be fully implemented, providers would either drop out of Medicare and jeopardize access for seniors, or Congress would intervene – thus increasing spending. "Medicare prices would be considerably below the current relative level of *Medicaid* prices, which have already led to access problems for Medicaid enrollees, and far below the levels paid by private health insurance," according to the actuary.[144] Medicaid patients have many restrictions on

---

[139] Congressional Budget Office, "Effects of the Patient Protection and Affordable Care Act on the Federal Budget and the Balance in the Hospital Insurance Trust Fund," December 23, 2009. http://www.cbo.gov/ftpdocs/108xx/doc10868/12-23-Trust_Fund_Accounting.pdf

[140] Congressional Budget Office, "Effects of the Patient Protection and Affordable Care Act on the Federal Budget and the Balance in the Hospital Insurance Trust Fund," December 23, 2009. http://www.cbo.gov/ftpdocs/108xx/doc10868/12-23-Trust_Fund_Accounting.pdf

[141] Congressional Budget Office, "Effects of the Patient Protection and Affordable Care Act on the Federal Budget and the Balance in the Hospital Insurance Trust Fund," December 23, 2009. http://www.cbo.gov/ftpdocs/108xx/doc10868/12-23-Trust_Fund_Accounting.pdf

[142] Shatto, John and Clemens, Kent. "Projected Medicare Expenditures under an Illustrative Scenario with Alternative Payment Updates to Medicare Providers," Office of the Actuary, Centers for Medicare and Medicaid Services, August 5, 2010. http://www.cms.gov/ActuarialStudies/Downloads/2010TRAlternativeScenario.pdf

[143] Shatto, John and Clemens, Kent. "Projected Medicare Expenditures under an Illustrative Scenario with Alternative Payment Updates to Medicare Providers," Office of the Actuary, Centers for Medicare and Medicaid Services, August 5, 2010. http://www.cms.gov/ActuarialStudies/Downloads/2010TRAlternativeScenario.pdf

[144] Shatto, John and Clemens, Kent. "Projected Medicare Expenditures under an Illustrative Scenario with Alternative Payment Updates to Medicare Providers," Office of the Actuary, Centers for Medicare and Medicaid Services, August 5, 2010. http://www.cms.gov/ActuarialStudies/Downloads/2010TRAlternativeScenario.pdf

accessing care because of very low reimbursements, so it is difficult to assume Congress would allow rates to be reduced so low. "Well before that point," the Actuary concluded, "Congress would have to intervene to prevent the withdrawal of providers from the Medicare market and the severe problems with beneficiary access to care that would result."[145]

Both the CBO Director and CMS Actuary agree. Estimated savings from cuts to Medicare are unlikely and it is not possible to double count savings from Medicare.

Other Medicare experts arrive at the same conclusion. Dr. Tom Saving, a former Medicare trustee from 2000- 2007, said that "while some savings are necessary to shore up the Medicare program, we know that the new law's unrealistic cuts will hurt care for seniors. Instead of reducing the existing program's tremendous burden on taxpayers, the new law commits future taxpayers to a bigger burden through a bigger trust fund."[146]

Another former Medicare trustee, David Walker, noted a Medicare dollar cannot be simultaneously spent and saved. If "the Medicare savings are used to pay for expanded health care coverage, the economic capacity of the federal government to meet its Medicare obligations will not be enhanced." [147]

Independent Medicare and budget experts conclude that the appearance of Medicare's extended solvency is actually only a mirage. In reality, under the new law, Medicare's unfunded liabilities will grow worse.

[145] Shatto, John and Clemens, Kent. "Projected Medicare Expenditures under an Illustrative Scenario with Alternative Payment Updates to Medicare Providers," Office of the Actuary, Centers for Medicare and Medicaid Services, August 5, 2010. http://www.cms.gov/ActuarialStudies/Downloads/2010TRAlternativeScenario.pdf

[146] Cornyn, John. "Cornyn & Former Public Trustees Highlight How The New Health Law Worsens Washington's Fiscal Crisis ," Press Release, Office U.S. Senator John Cornyn, August 5, 2010. http://tiny.cc/i6ie6

[147] Cornyn, John. "Cornyn & Former Public Trustees Highlight How The New Health Law Worsens Washington's Fiscal Crisis ," Press Release, Office U.S. Senator John Cornyn, August 5, 2010. http://tiny.cc/i6ie6

Higher Costs, Fewer Jobs For Young Americans

Much attention has been focused on how the federal health care overhaul, six months after enactment, mandates all insurance companies must allow young adults up of to age 26 to remain on their parents' health insurance. These blanket mandates will increase health insurance costs for millions of Americans.[148] But the relative benefits or costs of this specific provision should not obscure a larger totality: the next generation of Americans faces a grim future.

Gloomy Outlook

Government has grown rapidly in recent years, choking out progress and opportunity with increasing costs, mandates, and taxes.

A recent survey found that fewer than half of all Americans were confident that their children will have better lives than they have.[149] Certainly, young Americans in high school and college face a bleak economic outlook on the horizon.

Less than half of Americans age 16 to 24 were employed this summer – the lowest level on record in more than six decades.[150] Youth employment – which always rises in the summer – was roughly only half as robust as it was the previous years. [151]

Our national debt stands at a staggering $13.6 trillion. Young adults already face a current debt burden of more than $120,000 per taxpayer.[152]

Employer Penalty Penalizes Young Workers

Unfortunately, the future does not look much brighter. Young Americans' financial future as taxpayers and employees is made worse by the health overhaul.

The employer penalty buried in the health overhaul will discourage hiring and reduce wages. Dr. Kate Baicker, a member of the Congressional Budget Office's (CBO) Panel of Health Advisers, noted in research that among the uninsured, Americans with the lowest levels of education are at the highest risk of losing their jobs.[153] This means that many young adults coming out of high school and even college may be in at an increased competitive disadvantage under the law, compared to other Americans.

---

[148] [148] Coburn, Tom and Barrasso, John. *Bad Medicine: A Check-Up on the New Federal Health Law,* July 2010, page 29. http://coburn.senate.gov/public//index.cfm?a=Files.Serve&File_id=722faf8b-a5be-40fd-a52b-9a98826c1592.

[149] Miller, Rich. "Americans See Children's Future Dim in Poll as 50% Pessimistic," Bloomberg News, October 13, 2010. http://www.bloomberg.com/news/2010-10-13/americans-see-children-s-future-dim-in-poll-as-50-pessimistic.html.

[150] Stafford, Diane. "Bad Statistics for Summer Employment for Youth," Kansas City Star, August 27, 2010. http://www.mcclatchydc.com/2010/08/27/99763/bad-statistics-for-summer-employment.html

[151] Stafford, Diane. "Bad Statistics for Summer Employment for Youth," Kansas City Star, August 27, 2010. http://www.mcclatchydc.com/2010/08/27/99763/bad-statistics-for-summer-employment.html

[152] U.S. Debt Clock.org as of September 26, 2010. http://www.usdebtclock.org/#.

[153] Katherine Baicker and Amitabh Chandra, "Myths and Misconceptions about U.S. Health Insurance," Health Affairs, 2008. http://content.healthaffairs.org/cgi/content/abstract/hlthaff.27.6.w533

Health Insurance Costs Increase Even Further

Currently, about one in three Americans ages 18 to 24 does not have health insurance, despite that health insurance is the most affordable for young, healthy Americans.[154] In Oklahoma for example, high quality, affordable health plans are available to young Americans up to age 32 for about the same monthly price as the cost of cable television and a cell phone plan.[155]

Under the health overhaul however, premiums for young adults will spike dramatically because of newly-mandated rating rules. Beginning in 2014, new rules in the law mandate insurance companies may only charge an older person three times the premium cost they charge a younger person. This has the effect of increasing premium costs on young adults. In fact, some independent actuaries estimate that premiums for the youngest third of the population could increase by as much as 35 percent under the new law's tight age bands.[156]

And not only will insurance be more expensive, health care will be more expensive. The Joint Committee on Taxation has confirmed that the new health taxes included in the overhaul – on medical devices, health plans, and prescription drugs – will be passed on directly to consumers.[157]

Faced with increased insurance and medical costs, many young adults are likely to forgo purchasing health insurance altogether. In 2014 when the individual mandate is effective, the penalty for not maintaining health insurance will only be several hundred dollars per person. Many younger, healthier Americans will make an economic decision to pay the penalty, rather than paying more for health insurance they may be unlikely to need. Unfortunately, because millions of younger, healthier Americans may not purchase health insurance and spread risk in the insurance risk pool, this will cause premiums to increase even more rapidly for those with insurance.

Indeed, the reality young adults face under the overhaul is concerning. A massive debt burden. Rising costs. Fewer jobs and labor disincentives. While the law does mandate that young adults up to age 26 be allowed to remain on their parents' health insurance, the core elements of the legislation paint a grim future.

[154] DeNavas-Walt, Carmen; Proctor, Bernadette; and Smith, Jessica. "Income, Poverty, and Health Insurance Coverage in the United States: 2009," September 2010. http://www.census.gov/prod/2010pubs/p60-238.pdf

[155] Holland, Kim. "Letter to Senator Coburn on The Patient Protection and Affordable Care Act," Office of the Commissioner, Oklahoma Insurance Department, December 1, 2009. http://coburn.senate.gov/public/index.cfm?a=Files.Serve&File_id=494070c0-a06f-4b26-989e-dddda162d27f

[156] Grau, Jason and Giesa, Kurt, "Impact of the Patient Protection and Affordable Care Act on Costs in the Individual and Small-Employer Health Insurance Markets, December 1, 2009, http://www.oliverwyman.com/ow/pdf_files/YBS009-11-28_PPACA120309.pdf.

[157] Joint Committee on Taxation, "Technical Explanation of the Revenue Provisions of the 'Reconciliation Act of 2010,' as Amended, In Combination with the 'Patient Protection and Affordable Care Act,'" March 21, 2010, http://www.jct.gov/publications.html?func=startdown&id=3673.

Costs Increasing For Employers

Proponents of the new health law argue the legislation needs time to work. Unfortunately, businesses' costs will increase with time because of the law, rather than decrease. The new law increases the cost of pharmaceutical drugs, medical devices, and health insurance and bends the "cost curve" up.[158] Regrettably, businesses and employees will bear the brunt of these costs.

The *Wall Street Journal* recently reported that a survey of more than 70 large companies found that businesses "expect their health-care costs to rise nine percent next year."[159] Nearly two-thirds of businesses surveyed anticipate they will increase the proportion of premiums paid by employees.[160] And nearly half say they will increase the maximum out-of-pocket costs for employees in the coming year.[161]

Another independent analysis has reached similar conclusions. Hewitt Associates recently released an analysis projecting a nearly nine percent premium increase for employer-sponsored health insurance coverage in 2011 alone.[162] Similarly, an Aon Consulting survey expects an increase of more than 10 percent for employer-sponsored health insurance for the year ahead.[163]

Small Business Tax Credits Fail To Improve Outlook

Businesses continue to bear an increasing burden in health care costs. Unfortunately, business leaders are now learning that new small business tax credits in the law actually do very little and do not prevent health care costs for businesses from climbing higher.

Sections 1421 and 10105 of the health care bills created a small business tax credit for some employers' contributions toward employees' health insurance premiums. In April, President Obama said the "health care tax credit is pro-jobs, it's pro-business." But business owners are now learning that the credits will actually have a negligible impact on the costs to businesses. While the Congressional Budget Office (CBO) says the credit is available to "for-profit and nonprofit employers with fewer than 25 full-time equivalent employees with average annual wages of less than $50,000," according to CBO data only about three million employees – or one percent of the American population – will benefit from the credit in 2016. [164]

Not only are few employees eligible for the credit, few businesses appear interested in the credit. Despite the Administration's eagerness to promote the small business tax credit by mailing postcards about the

---

[158] Johnson, Avery. "Firms Find Changing Their Insurance Is Trickier," The Wall Street Journal, June 23, 2010. http://online.wsj.com/article/SB10001424052748703513604575311013340405940.html; Coburn, Tom and Barrasso, John. *Bad Medicine: A Check-Up on the New Federal Health Law,* July 2010, page 5. http://coburn.senate.gov/public//index.cfm?a=Files.Serve&File_id=722faf8b-a5be-40fd-a52b-9a98826c1592.

[159] Hobson, Katharine. "Big Employers Estimate Health Care Costs Will Rise 8.9% in 2011," The Wall Street Journal Health Blog, August 19, 2010. http://blogs.wsj.com/health/2010/08/19/big-employers-estimate-health-care-costs-will-rise-89-in-2011/

[160] Hobson, Katharine. "Big Employers Estimate Health Care Costs Will Rise 8.9% in 2011," The Wall Street Journal Health Blog, August 19, 2010. http://blogs.wsj.com/health/2010/08/19/big-employers-estimate-health-care-costs-will-rise-89-in-2011/

[161] Lillis, Mike. "Faced with rising health costs, large employers plan to shift burden to workers," The Hill, Healthwatch blog, August 18, 2010. http://thehill.com/blogs/healthwatch/health-reform-implementation/114823-faced-with-rising-health-costs-large-employers-plan-to-shift-burden-to-workers-

[162] Hewitt Associates. "U.S. Health Care Cost Rate Increases Reach Highest Levels in Five Years, According to New Data from Hewitt Associates," September 27, 2010. http://www.hewittassociates.com/Intl/NA/en-US/AboutHewitt/Newsroom/PressReleaseDetail.aspx?cid=9106

[163] Sharon, Bill. "2010 Health Care Trend Survey," Aon Consulting, Summer 2010. http://www.aon.com/attachments/2010_health_care_trend_survey_summer.pdf

[164] Chaikind, Hinda, and Peterson, Chris. "Summary of the Small Business Health Insurance Tax Credit Under the Patient Protection and Affordable Care Act (PPACA)," September 21, 2010. http://www.ncsl.org/documents/health/SBtaxCredits.pdf (link is to publicly available document dated April 5, 2010)

program to four million eligible companies, a recent *Business Week* article noted that "the response has been tepid."[165]

The problem with the credit is the credit itself. Many businesses simply crunch their numbers and find the credit does not work for them because they have too many employees or their employees earn too much to be eligible.[166] "The credit starts to phase out for companies that pay average annual wages of more than $25,000 or employ more than 25 workers," *Business Week* notes. And, "the value of the benefit declines quickly, so many business owners in high-cost states get no tax break, and those elsewhere often say the credit is too small to make much of a difference."[167]

These problems with the tax credit mean, of the few businesses that are eligible for the tax credit, few businesses are likely to even apply. *The Washington Post* reported that the Commonwealth Fund found that of the three million employees at firms that would be eligible to utilize the tax credit, "for the most part, those are firms that already offer their employees health insurance."[168] Commonwealth's analysis found that, even with the credit, businesses not already offering health coverage "are unlikely to consider the tax breaks enough of a financial incentive to start doing so."[169]

But even if the estimated three million employees at eligible firms enjoy temporary relief from skyrocketing health costs because of the tax credit, this group represents *less than two percent* of Americans with commercial health insurance.[170] Rather than lowering health costs for all businesses and workers, the new law only offers a temporary credit from which one percent of individuals in America will actually benefit.

Even worse than failing to soften the blow of rising costs for businesses, the tax credit itself also interferes in the labor market, creating perverse incentives for small employers to not expand their businesses and hire employees. According to recent analysis by one think tank, "employers with 15 workers, taking on an additional hire will reduce the credit by $1,400."[171] The reduction in credit is most severe for companies hiring a twenty-fifth employee, as they would see a $5,600 reduction in the credit at that point.[172]

All of this is headed the wrong direction. Congress should be embracing policies which will spur business expansion and job growth – not policies that will increase health care costs for businesses and employees.

---

[165] Lerman, David, and Smith, Liz. "Small Businesses Skip the Health-Care Tax Credit," Bloomberg Businessweek, August 26, 2010. http://www.businessweek.com/print/smallbiz/content/aug2010/sb20100825_366429.htm

[166] National Federation of Independent Businesses. "2010 Health Insurance Reform Tax Credit Calculator for Small Business." Summer 2010. http://www.nfib.com/issues-elections/healthcare/credit-calculator

[167] Lerman, David, and Smith, Liz. "Small Businesses Skip the Health-Care Tax Credit," Bloomberg Businessweek, August 26, 2010. http://www.businessweek.com/print/smallbiz/content/aug2010/sb20100825_366429.htm

[168] Aizenman, N.C. "Health insurance tax credit likely to affect small part of small-business workforce," The Washington Post, September 2, 2010. http://www.washingtonpost.com/wp-dyn/content/article/2010/09/02/AR2010090200044_pf.html

[169] Aizenman, N.C. "Health insurance tax credit likely to affect small part of small-business workforce," The Washington Post, September 2, 2010.http://www.washingtonpost.com/wp-dyn/content/article/2010/09/02/AR2010090200044_pf.html

[170] DeNavas-Walt, Carmen; Proctor, Bernadette; and Smith, Jessica. "Income, Poverty, and Health Insurance Coverage in the United States: 2009," September 2010. http://www.census.gov/prod/2009pubs/p60-236.pdf

[171] Heflin, Jay. "Report: Healthcare law tax credits encourage small businesses to stay small, not hire," The Hill, Healthwatch blog, May 23, 2010. http://thehill.com/blogs/on-the-money/domestic-taxes/99387-study-healthcare-law-encourages-small-businesses-to-stay-small?tmpl=component&print=1&page=; Herrick, Devon and Villarreal, Pamela. "Obama's Tax on Job Creation," National Center for Policy Analysis, Brief Analysis No. 703, May 18, 2010. http://www.ncpa.org/pub/ba703

[172] Heflin, Jay. "Report: Healthcare law tax credits encourage small businesses to stay small, not hire," The Hill, Healthwatch blog, May 23, 2010. http://thehill.com/blogs/on-the-money/domestic-taxes/99387-study-healthcare-law-encourages-small-businesses-to-stay-small?tmpl=component&print=1&page=