CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 7, 2012

H.R. 1206
Access to Professional Health Insurance Advisors Act of 2011

As ordered reported by the House Committee on Energy and Commerce on September 20, 2012

SUMMARY

H.R. 1206 would amend current law to exclude compensation paid to insurance agents and brokers from the administrative expenses used to determine the calculation of the medical loss ratio (MLR) for health insurance plans. The bill also would make waivers of certain requirements under the MLR rules easier for states to obtain by requiring the Secretary of the Department of Health and Human Services (HHS) to defer to a state's findings that the application of those rules would destabilize the state's insurance market. Finally, the legislation would extend the availability of such waivers in other ways.

CBO and the staff of the Joint Committee on Taxation (JCT) estimate that enacting H.R. 1206 would increase deficits by $531 million over the 2013-2017 period and by about $1.1 billion over the 2013-2022 period. Of this increase in the deficit, $127 million would be a decline in off-budget Social Security revenues between 2013 and 2022. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 1206 is shown in the following table. The costs of this legislation fall within budget function 550 (health).

	By Fiscal Year, in Millions of Dollars											
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-2017	2013-2022
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	0	12	77	89	58	41	39	41	43	46	236	447
Estimated Outlays	0	12	77	89	58	41	39	41	43	46	236	447
CHANGES IN REVENUES												
Estimated Revenues	0	-22	-92	-97	-84	-72	-71	-75	-79	-83	-295	-675
NET INCREASE OR DECREASE (-) IN THE DEFICIT												
Deficit Impact	0	34	169	185	143	113	110	116	123	129	531	1,122
On-Budget	0	30	154	169	128	99	96	101	106	112	481	995
Off-Budget [a]	0	3	15	16	15	14	14	15	16	17	50	127

Note: Numbers may not sum to totals because of rounding.

a. All off-budget effects would come from changes in revenues. (The payroll taxes for Social Security are classified as "off-budget.")

BACKGROUND

Under current law, fully insured health plans are required to provide rebates to enrollees to the extent that the insurer's medical loss ratio is below a specified percentage. A medical loss ratio is equal to spending on health care and quality improvements as a fraction of total premiums earned.[1]

The MLR is calculated by adding spending for medical claims and quality improvement activities together and dividing by earned premiums. Individual and small group market plans are required to have an MLR of at least 80 percent, and large group plans are required to have an MLR of at least 85 percent.[2] Administrative expenses, including compensation paid to insurance agents and brokers, as well as insurer profits account for the remaining 15 percent to 20 percent (or less) of earned premiums. The Secretary of HHS has the authority to temporarily waive the requirement that insurers achieve an MLR of at least 80 percent in the individual market if she determines that enforcing the statutory MLR would destabilize that market. Such waivers are granted on a state-by-state basis and give states additional time to comply with the required threshold. For 2011, 17 states applied for waivers and 7 states were granted them.[3] (Of those 7 waivers granted, 4 included modifications for 2012 as well as for 2011. No additional applications for waivers were submitted for 2012.)

1 Earned premiums are total premiums received by an insurer net of any taxes, licensing, and regulatory fees paid by the insurer and after accounting for payments or receipts for risk adjustment, risk corridors, and reinsurance.

2 Small group plans are generally defined as plans with 1 to 100 employees, but a state may substitute "50" employees for "100" employees until 2016.

3 See: http://www.cciio.cms.gov/programs/marketreforms/mlr/state-mlr-adj-requests.html.

Starting in 2012, plans that do not meet the required MLR standards in the previous year must pay a rebate to each enrollee. Such rebates are equal to the amount by which the applicable MLR standard exceeds the insurer's actual MLR multiplied by earned premiums. According to HHS, insurers have provided enrollees with rebates this year that totaled approximately $1.1 billion.[4] Rebates may be provided as a reduction in premiums or reimbursed directly to enrollees. (CBO incorporates estimated rebate amounts in its projections of health insurance premiums.)

To avoid incurring rebates, insurers can increase their MLR by reducing administrative costs or profits, increasing spending on medical benefits or quality improvement activities, or a combination of both. As a result of those changes, premiums could be lower, higher, or about equal to the levels that would occur in the absence of the MLR policy. In CBO's judgment, informed by discussion with outside experts, premiums are probably lower under the MLR policy than they would have been otherwise.

For 2011 and 2012, CBO estimated the magnitude of the reduction in premiums resulting from the MLR policy. That estimate draws on insurance industry data and is based on two factors: actual rebates in 2012, and evidence that insurance carriers reduced administrative costs (in large part by reducing agent and broker compensation).

Beyond 2012, in CBO's judgment, the MLR policy under current law will continue to have the effect of reducing premiums relative to those in the absence of that policy. Over time, however, CBO expects that the reduction in premiums will be attenuated. Starting in 2014, a three-year moving average, rather than annual data, will be used to calculate the MLR, making the MLR targets easier to achieve. In addition, CBO expects that there is an increasing probability that insurers will make changes – such as increasing spending on medical benefits or quality improvement activities – that will push premiums upward.

Overall, CBO estimates that the MLR requirements under current law will reduce premiums by about one-half of a percent, on average, over the next few years, declining to approximately one-tenth of a percent by the end of the 10-year projection period.[5]

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[4] Of that $1.1 billion, individual market rebates equaled $394 million, small group market rebates equaled $321 million, and large group market rebates equaled $386 million. See: http://www.healthcare.gov/law/resources/reports/mlr-rebates06212012a.html.

[5] While CBO estimates that the MLR policy will reduce premiums relative to those in the absence of the policy, many other factors also affect premiums. On net, CBO estimates that the combination of those factors will result in rising premiums overtime.

BASIS OF ESTIMATE

H.R. 1206 would exclude fees, commissions, and rebates paid to licensed independent insurance agents and brokers (or other individuals licensed by the state to sell or assist in the sale or renewal of insurance) from administrative expenses for the calculation of the medical loss ratio of a health insurance plan. The bill also would change the rules for consideration of state requests for waivers in ways that would make those waivers easier to obtain. In addition, the bill would allow states to request waivers for the small group market. For this estimate, CBO assumes that the legislation would be enacted near the end of 2012 and become effective for plan years that begin at the start of 2014.

Under H.R. 1206, agent and broker compensation would no longer be considered an administrative expense for the purpose of calculating MLRs, making the MLR requirements easier for plans to achieve. By making these targets easier to achieve, H.R. 1206 would reduce the number of plans required to pay rebates and the amount of rebates paid.

CBO estimates that removing agent and broker compensation from the MLR calculation would initially reduce rebates by between 60 percent to 70 percent, declining to between 40 percent and 50 percent by the end of the 2013-2022 period. Because MLR requirements would be easier to achieve under H.R. 1206, insurers would have less incentive to reduce administrative costs than under current law, CBO estimates. Both of these effects are expected to result in an increase in premiums relative to current law.

H.R. 1206 would also increase the probability that more states would be able to waive or obtain modifications to the MLR requirements because the Secretary of HHS would have to defer to a state's own assessment of market destabilization. The estimate incorporates increased waiver activity in the individual market and new waivers in the small group market in a smaller number of states. Because waivers allow plans to face lower MLR thresholds, increased waivers are also expected to increase net premiums.

Overall, CBO assumes that enacting H.R. 1206 would have the effect of increasing premiums by approximately two-tenths of a percent on average over the next few years, declining to less than one-tenth of a percent by the end of the 2013-2022 period.

Overall Impact on Federal Spending and Revenues

According to CBO and JCT's estimates, enacting H.R. 1206 would increase direct spending by an estimated $236 million over the 2013-2017 period and $447 million over the 2013-2022 period. Further, H.R. 1206 would reduce revenues by $295 million over the 2013-2017 period and $675 million over the 2013-2022 period. Off-budget (Social Security) revenues would account for $127 million of that revenue reduction over the 10-year period.

Direct Spending

Because H.R. 1206 would increase private health insurance premiums, CBO estimates that subsidies for health insurance purchased through the exchanges would rise. Subsidies for health insurance premiums are structured as refundable tax credits; the portions of such credits that exceed taxpayers' liabilities are classified as outlays, while the portions that reduce tax payments are reflected in the budget as reductions in revenues. CBO and JCT estimate that the outlay portion of the increased payments for premium subsidies available through exchanges would be $236 million over the 2013-2017 period and $447 million over the 2013-2022 period.

Revenues

The effect of the bill on the cost of subsidies for purchasing health insurance through exchanges would decrease revenues by $22 million over the 2013-2017 period and $38 million over the 2013-2022 period, CBO and JCT estimate.

H.R. 1206 also would increase premiums for employer-based health insurance. By increasing the share of employee compensation furnished as tax-excluded health benefits rather than as taxable wages and salaries, CBO and JCT estimate that revenues will decrease by $637 million over the 2013-2022 period. Decreases in such wages and salaries lead to decreases in both federal income tax and payroll taxes for Social Security and Medicare.

PAY-AS-YOU-GO CONSIDERATIONS

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

CBO Estimate of Pay-As-You-Go Effects for H.R. 1206, as ordered reported by the House Committee on Energy and Commerce on September 20, 2012

	By Fiscal Year, in Millions of Dollars											
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013-2017	2013-2022
NET INCREASE OR DECREASE (-) IN THE ON-BUDGET DEFICIT												
Statutory Pay-As-You-Go Impact	0	30	154	169	128	99	96	101	106	112	481	995
Memorandum:												
Changes in Outlays	0	12	77	89	58	41	39	41	43	46	236	447
Changes in Revenues	0	19	76	81	69	58	56	60	63	66	245	548

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 1206 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

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