

Comparing the Employer Requirements in the Congressional Health Proposals
Ken Jacobs, UC Berkeley Center for Labor Research and Education

Requiring employers to provide health care coverage or contribute to its cost is essential if Congress seeks to encourage employers to continue to offer health insurance under the proposed reforms. An employer requirement:

- Levels the playing field between employers;
- Reduces the incentive for employers to drop coverage and shift costs onto the public (“crowd-out.”);
- Provides revenue to pay for the coverage expansion.

The structure of the employer requirement will determine:

- How much revenue is generated, how many people end up with employer-based insurance, and how health costs affect competition between employers.
- Ease of administration.
- Potential for labor market distortions.

In a competitive market, employers should continue to directly provide coverage if the cost of the premiums is less than the cost of the penalty plus the cost of raising the workers’ wages enough to allow them to purchase equal plans through the exchange, taking into account the subsidies available to their workers in the exchange if they are not offered coverage on the job.

HR 3200 is the most effective in meeting the objectives of an employer requirement.

- **Easy to administer:** Requires firms to provide health coverage to their employees or pay a percent of payroll into the exchange. Firms with total payrolls below \$500,000 a year are exempt. Firms with payrolls between \$500,000 and \$750,000 would pay on a sliding scale starting at 2 percent. Those with payrolls over \$750,000 would pay 8 percent of payroll. As a point of comparison, the average firm currently spends 10 percent of payroll on health care.¹ To qualify as providing coverage, the employer would need to contribute at least 72.5 percent of the premium cost for the lowest cost individual plan that meets the minimum benefit standard, and 65 percent of the premium for family coverage.
- **Effective in preventing crowd-out:** Only those employers whose workers have average family incomes below 200 percent of the federal poverty level would gain from ceasing to offer coverage. Ten percent of workers with coverage through an employer are in families with incomes below 200 percent of the federal poverty level.²
- **Low risk of labor market distortions:** Equivalent to moderate increase in minimum wage. It’s likely that costs for workers earning above the minimum wage will be passed on to workers in the form of forgone wages. Two recent studies of employer requirements, one on Hawaii,³ the other on San Francisco, found no measurable effect on employment.⁴
- **Employer 10-year contribution,** according to CBO, \$163 billion.⁵
- **Other:** Payroll size (HR 3200) is a better measure of a firm’s ability to pay than the number of workers (HELP bill).

Senate HELP bill would do little to level the playing field among employers or prevent crowd-out.

- **Easy to administer:** Employers would be required to cover 60 percent of the premium cost of a plan that meets the minimum qualifying standards or to pay \$750 per employee who is not offered coverage and \$375 on each part-time employee. The requirement applies to firms with more than 25 employees.
- **Limited effectiveness in preventing crowd-out:** The \$750 a year requirement compares to an average annual individual coverage cost of \$4,757 and \$13,122 for family coverage.⁶ A larger share of employers would gain advantage from dropping coverage than in the House bill. Firms with median family incomes below 300 percent of the federal poverty level would largely do better by paying the fee and shifting costs onto the public; the exact benefit would depend on family size and average worker age. Twenty-five percent of the people with coverage through an employer are in families with incomes under 300 percent of the federal poverty level.
- **Low risk of labor market distortions:** As with the House bill, the HELP bill is not likely to have any negative impact on employment.
- **Employer 10-year contribution,** according to CBO: \$52 billion.⁷

Senate Finance proposal has the greatest potential for labor market distortions; it creates an incentive to reduce worker hours and raises the relative cost of hiring individuals in low- and middle-income families.

- **Complex and expensive to administer, creating a high potential for error:**⁸ Employers with more than fifty full-time workers—defined as thirty hours a week—who do not offer health coverage would pay a fee based on the amount of tax subsidies those workers receive in the exchange. The total amount required of any employer is capped at \$400 for every employee in the firm. Unlike the House and HELP bills, employers would be dependent on after-the-fact reports in order to determine their liability.
- **Limited effectiveness in preventing crowd-out.** Requirement for firms with a large share of subsidy-eligible employees is too low to be effective, and firms with a low share of subsidy-eligible employees are likely to try to evade the requirement.
- **Greatest risk of labor market distortions** because it only applies to fulltime workers, and firms can easily avoid it by reducing work hours.⁹ The provision also raises privacy considerations for employees.
- **Employer 10-year contribution,** according to CBO: Not yet scored.

¹ Bureau of Labor Statistics, "Employer Cost for Employee Compensation," available at <http://www.bls.gov/ncs/ect/data.htm> (last accessed June 2009).

² Current Population Survey, March Supplement, 2008.

³ Thomas C. Buchmueller, John DiNardo, and Rob Valletta, "The Effect of an Employer Health Insurance Mandate on Health Insurance Coverage and the Demand for Labor: Evidence from Hawaii," Discussion Papers 4152 (IZA: Institute for the Study of Labor, 2009).

⁴ Arindrajit Dube, William H. Dow, and Carrie Hoverman Colla, "The Impact of San Francisco's Employer Health Spending Requirement: Initial Findings from the Labor and Product Markets," UC Berkeley Institute for Research on Labor and Employment, August 2009. http://irle.berkeley.edu/cwed/wp/sfhealth_09.pdf

⁵ Douglass Elmendorf, Congressional Budget Office letter to Charles Rangel, Chairman, Committee on Weights and Means, U.S. House of Representatives, July 17, 2009.

⁶ Kaiser Family Foundation and Health Research and Educational Trust, Survey of Employer Health Benefits 2008.

⁷ Douglass Elmendorf, Congressional Budget Office letter to Hon. Ted Kennedy, Chairman, Health, Education, Labor and Pensions, United States Senate, July 2, 2009.

⁸ Judith Solomon and Robert Greenstein, "Employer Requirement In Baucus Health Package Would Have Unintended Effect Of Discouraging Hiring Of Low-Income And Minority Workers," Center on Budget and Policy Priorities, September 8, 2009. <http://www.cbpp.org/files/9-8-09health2.pdf>

⁹ Solomon and Greenstein, 2009.