



BROKEN PROMISE: Why ObamaCare Will Force Americans to Lose the Health Care Coverage They Have and Like

Report Prepared for
Ways and Means Committee Chairman Dave Camp (R-MI)
By the Ways and Means Committee Majority Staff
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“...our recent health reform has created a situation where there are strong economic incentives for employers to drop coverage altogether.”¹

- The Honorable Philip Bredesen, Democrat
Governor of Tennessee (2003-2011)

¹ Philip Bredesen, “ObamaCare’s Incentive to Drop Insurance,” The Wall Street Journal, October 21, 2010. <http://online.wsj.com/article/SB10001424052702304510704575562643804015252.html>. Then-Governor Bredesen predicted that the State of Tennessee could save more than \$146 million in 2014 by transferring state employees’ health coverage to the federal government.

Background

In 2010, nearly 170 million Americans received health coverage from their employer, making employer-sponsored insurance (ESI) the largest single source of health coverage in the United States.² Over half of those receiving ESI are women, nearly a quarter are children under the age of 18, and nearly three quarters of those receiving ESI are in families with children.³

Throughout debate on the Democrats' health care legislation and the subsequent implementation of the law, President Obama has repeatedly promised to the American people that nobody would lose their health plan. The President stated,

“Let me be exactly clear about what health care reform means to you. First of all, if you’ve got health insurance, you like your doctors, you like your plan, you can keep your doctor, you can keep your plan. Nobody is talking about taking that away from you.”⁴

However, in January 2010, President Obama hedged, telling House Republicans that:

“[Y]ou know, we said from the start that -- that it was going to be important for us to be consistent in saying to people if you can have your -- if you want to keep the health insurance you've got, you can keep it; that you're not going to have anybody getting in between you and your doctor in your decision making. And I think that some of the provisions that got snuck in might have violated that pledge.”⁵

The President was correct: the Democrats' health care law contains numerous policies that will either force or encourage employers to eliminate the health insurance coverage they currently offer their employees.

As this report shows, new analysis of the health care costs of Fortune 100 companies indicates the Democrats' health care law threatens the stability and sustainability of the employer-based health insurance system – even among the nation's most prosperous companies.

House Ways and Means Committee Chairman Dave Camp (R-MI) asked for and received, on a confidential basis, information on the cost and coverage of the health insurance plans for the Fortune 100 companies. In total, the Committee received information from 71 Fortune 100 companies.

² U.S. Census Bureau: Income, Poverty, and Health Insurance Coverage in the United States: 2010.

³ U.S. Census Bureau: http://www.census.gov/hhes/www/cpstables/032011/health/h01_001.htm

⁴ ABC News.com: *President Obama Continues Questionable “You Can Keep Your Health Care” Promise*; July 16, 2009: <http://abcnews.go.com/blogs/politics/2009/07/president-obama-continues-questionable-you-can-keep-your-health-care-promise/>

⁵ President Obama Speech to House Republicans, Baltimore, Maryland, January 29, 2010: <http://projects.washingtonpost.com/obama-speeches/speech/173/> (emphasis added).

Summary of Key Findings

- The Democrats’ health care law contains a number of policies that create perverse financial incentives for employers to stop offering health insurance to their employees, perhaps none more so than the employer mandate – a requirement that businesses with more than 50 full-time equivalent (FTE) employees offer “affordable” health insurance to their employees or pay a fine beginning in 2014. Because the cost of paying the mandate penalty is far cheaper than the cost of providing health insurance, employers will face a stark economic choice.
- In total, the 71 Fortune 100 companies that responded to this inquiry could save an estimated \$28.6 billion in 2014 alone by eliminating health insurance coverage for their more than 5.9 million U.S. employees (impacting more than 10.2 million employees and dependents covered by those plans) and instead paying the \$2,000 per full-time employee fine created in the Democrats’ health care law. From 2014 through 2023, these employers could save an astounding \$422.4 billion if they took this action.
- Individually, these employers could save, on average, \$402.3 million (\$4,821 per full-time and part-time U.S. employee) – on an after tax basis – in 2014 alone by eliminating their health insurance coverage and instead paying the employer mandate’s \$2,000 per full-time employee fine. From 2014 through 2023, the average employer responding to the survey could save \$5.9 billion if they dropped coverage in favor of paying the mandate penalty.
- Despite promises that the law would control health care costs, employers have overwhelmingly concluded increases in cost will accelerate in the years after the Democrats’ health care law is fully implemented. Alarming, 84 percent of responding employers expect their future health care costs will increase at rates that are greater than those they’ve experienced over the past five years. During this period, employers responded that their health insurance costs have increased 5.9 percent, on average, while they expect future health costs will grow 7.6 percent, on average.

	2014	2014-2023
Total health care spending for active employees	\$38.4 billion	\$550.6 billion
Total mandate penalty payments	\$9.9 billion	\$128.3 billion
Total savings resulting from dropping health insurance coverage for active employees	\$28.6 billion	\$422.4 billion
Average company health care spending for active employees	\$541.3 million	\$7.8 billion
Average company mandate penalty payment	\$139.0 million	\$1.8 billion
Average company’s total savings resulting from dropping health insurance coverage for active employees	\$402.3 million	\$5.9 billion
Average company savings per employee resulting from dropping health insurance coverage for active employees and paying the mandate penalty	\$4,821	\$9,999 in 2023

The Current Landscape

The 71 Fortune 100 companies who responded to the survey stated they employed more than 5.9 million full and part-time workers in the United States in 2011. These companies spent \$30.8 billion (after tax) on health insurance in 2011, covering more than 10.2 million lives in the U.S. 89 percent of companies indicated they offered health insurance coverage to part-time employees in 2011.

The average employer responding to the inquiry employed 84,279 full and part-time workers in the U.S. and spent \$433.7 million (after tax) on health care coverage for its U.S.-based employees in 2011.

The Democrats’ “Employer Mandate”

Sections 1513 and 10106 of the Patient Protection and Affordable Care Act (P.L. 111-148) and Section 1003 of the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) contained requirements that, beginning in 2014, require employers with an average of at least 50 full-time equivalent (FTE) employees to offer “affordable” and government-approved health insurance to their employees.⁶ Employers with at least 50 FTEs who do not offer government-approved coverage must pay a per employee penalty if at least one of their full-time employees purchases a qualified health plan through an Exchange and receives a taxpayer-funded premium subsidy for his/her coverage. This penalty will amount to an annual \$2,000 fine for every full-time employee (the calculation exempts the first 30 full-time employees) in 2014. After 2014, this penalty amount would be indexed to the average per capita premium for health insurance in the U.S., as determined by the Secretary of Health and Human Services.⁷

Even if employers do offer government-approved health insurance coverage, they would still be penalized if such coverage is deemed “unaffordable” and at least one full-time employee purchases a qualified health plan through an Exchange and receives a taxpayer-funded premium subsidy for his/her coverage.⁸ These employers would be forced to pay an annual \$3,000 penalty in 2014 for every full-time employee that receives an Exchange premium subsidy, despite the fact that these employers would already be offering government-mandated health insurance to their employees. This penalty amount is also indexed, as described above.

The employer mandate puts jobs in jeopardy. Not all employers have the financial resources to provide coverage to their employees, and not all employees seek jobs to obtain ESI. As a result of the employer mandate, many businesses that cannot afford to provide health insurance coverage for their workers will face a massive increase in costs – which for many companies exceeds their profit margins. A recent report prepared for the International Franchise Association determined that the employer mandate penalties could place more than 3.2 million full-time jobs at risk in the franchise industry alone.⁹

⁶ The number of FTEs is calculated by totaling the number of full-time workers (at least 30 hours per week) and adding the quotient derived by dividing the aggregate number of part-time hours worked during the month by 120 (e.g., if 360 hours were worked by part-time employees in a given month then the employer would increase its FTE total by 3 FTEs).

⁷ IRC §4980H(c)(5).

⁸ Employer-sponsored coverage is considered “unaffordable” if the employee’s required annual contribution to the premium exceeds 9.5 percent of the employee’s household income.

⁹ The Effects of the Patient Protection and Affordable Care Act on the Franchise

Even if companies are not forced to eliminate jobs, the law creates a financial incentive for employers to drop coverage, save labor costs, and send employees to the government-run exchanges where some will receive taxpayer-funded subsidies.

The Democrats' Health Care Law Encourages Employers to Drop Health Care Coverage

As a result of the Democrats' employer mandate, many employers who offer coverage to their employees will be left with a choice: continue offering health insurance (which is expected to become more expensive because of the Democrats' health care law) to their employees or pay a penalty for not offering such coverage. Unfortunately, for American families currently receiving ESI, it will be far cheaper for employers to simply drop their health insurance and pay the fine, because the costs of meeting the burdensome mandates required for health insurance plans far exceed the price of the fine.

According to data provided by the 71 Fortune 100 companies that responded to the inquiry, they could save a total of \$28.6 billion in 2014 alone if they stopped offering health insurance to their U.S. employees and instead paid the employer mandate penalty for not doing so. This calculation is based on these employers spending an estimated \$38.4 billion on health care coverage for their full and part-time employees in 2014 versus the cost of paying \$9.9 billion in mandate penalties for their full-time employees.¹⁰

These employers spent an average of \$5,197 on health insurance benefits, after taxes, per employee in 2011. In 2014, this average would increase to \$6,487 per employee, which far exceeds the \$2,000 per full-time employee penalty they would pay for not offering coverage under the Democrats' health care law. One Fortune 100 company could save more than \$3.5 billion in 2014 alone, while another could save \$1.8 billion. Four companies could save in excess of \$1 billion in 2014 if they dropped health coverage and paid the mandate penalty.

Trended forward, these companies could collectively save \$422.4 billion from 2014 through 2023 if they eliminated health insurance coverage for their U.S. employees and paid the employer mandate penalty. On average, these employers could save \$5.9 billion during this period. In the highly competitive global market in which these Fortune 100 companies operate, it is unrealistic for them not to consider the more economical choice of dumping health coverage and telling their employees to purchase health insurance through the Exchanges.

Industry; Diana Furchtgott-Roth and Amlan Banerjee, September 2011;
<http://www.franchise.org/uploadedFiles/HeathCare/The%20Effects%20of%20PPACA%20on%20Franchising-%20Final.pdf>

¹⁰ Figures contained in the report predicting costs and savings in 2014 and 2014 through 2023 assume static employment levels within the responding Fortune 100 companies from 2011 levels and that these companies' self-reported after-tax health care costs in 2011 will grow at the companies' self-reported average predicted rate from their 2011 spending levels. It also assumes the rate at which the employer mandate penalty will increase is equal to the growth rate of per capita health insurance premiums. The Congressional Budget Office predicts future private per capita premium growth will average 5.7 percent (<http://www.cbo.gov/sites/default/files/cbofiles/attachments/03-13-Coverage%20Estimates.pdf>).

Flawed View of America's Employers

Some have discounted concerns that employers would drop coverage in response to the Democrats' health care law. The Congressional Budget Office (CBO) has argued, "If firms could have attracted employees more cheaply by dropping health benefits and adding wages or other benefits that cost less, then they would have done so."¹¹ This static view of how employers react to changing costs and incentives ignores mounting evidence on how employers have already begun to respond to the Democrats' health care law, what actual employers are saying about how they will react to the burdensome new mandates, and how employers have responded to government mandates that increase the cost of employment in the past.

Several independent analyses have warned the law would lead to a large drop in employer-sponsored insurance (ESI):

- A report released by the McKinsey Group showed, overall, 30 percent of employers say they will definitely or probably stop offering health care coverage after 2014;¹²
- A survey by Market Strategies International estimated a 10 percent net decline in access to employer-sponsored health benefits as of January 2014;¹³
- A report released by Mercer has estimated that 9 percent of employers with 500 or more employees and 19 percent of small businesses (1-499 employees) are likely to terminate their health care plans;¹⁴ and
- A report by Price Waterhouse Coopers warned the Democrats' health care law has done little to ease the compliance burdens facing employers, and 84 percent of firms surveyed are likely to re-evaluate their overall benefits strategy.¹⁵

¹¹ Congressional Budget Office; "CBO and JCT's Estimates of the Affordable Care Act on the Number of People Obtaining Employment-Based Health Insurance"; March 2012

¹² Wall Street Journal, "Study Sees Cuts to Health Plans", June 8, 2011,

http://online.wsj.com/article/SB10001424052702304906004576371802092308600.html?mod=ITP_pageone_1

¹³ Market Strategies International; Many Companies Intend to Drop Employee Coverage in 2014 as Health Care Reform Takes Full Effect, January 20, 2011; <http://www.marketstrategies.com/news/1902/1/Many-Companies-Intend-to-Drop-Employee-Coverage-in-2014-as-Health-Care-Reform-Takes-Full-Effect.aspx>

¹⁴ Mercer; Employers accelerate efforts to bring health benefit costs under control; November 16 2011; <http://www.mercer.com/press-releases/1434885>

¹⁵ PwC; Employer Medical Costs Expected to Increase by 8.5 Percent; May 18, 2011;

<http://www.pwc.com/us/en/press-releases/2011/employer-medical-costs-expected-to-increase.jhtml>

Equally important, the evidence demonstrates employers and employees have already responded to the rising cost of health care. A survey released by the Gallup-Healthways Well-Being Index showed, in 2011, Americans continued to lose employer-provided insurance.¹⁶ The percentage of full-time employees with employer-sponsored coverage dropped 2.5 percent in 2011 from 73.4 percent to 70.9 percent. The Center for Health System Change recently reported, “well before the start of the Great Recession in December 2007, a steady decline of employer health coverage was underway with fewer firms offering coverage and fewer workers taking up coverage—likely because of rising health care costs.”¹⁷

Employers have also responded to increased health care costs by shifting more of the costs onto their employees. The National Business Group on Health survey of large employers found nearly two-thirds expect to increase the employee share of premiums.¹⁸ Towers Watson surveyed 368 employers in July 2011 and found that roughly two-thirds said they will increase the employee's share of premium contribution for single coverage, and 73 percent will increase them for employees with dependent coverage.¹⁹

Finally, the decline of the defined benefit pension plan stands in stark contrast to the static view of how employers and employees respond to market pressures. According to the consulting firm Watson Wyatt, in 1985, 89 percent of the Fortune 100 offered a traditional defined benefit plan to new employees. By 2007, just 28 percent offered a defined benefit plan to new employees.²⁰

In other words, employers have always responded to increased costs by making significant changes to their compensation packages (benefits and wages), and it is widely expected that they will continue to do so. Given opportunities to reduce overhead costs, they will, and have in order to remain competitive.

¹⁶ Gallup Wellbeing Survey; Fewer Americans Have Employer-Based health Insurance; February 14, 2012; <http://www.gallup.com/poll/152621/Fewer-Americans-Employer-Based-Health-Insurance.aspx>

¹⁷ Center for Studying Health System Change; Great Recession Accelerated Long-Term Decline of Employer Health Coverage; March 15, 2012; <http://www.hschange.com/CONTENT/1281/>

¹⁸ National Business Group on Health; “Majority of Large Employers Revamping Health Benefit Programs for 2012”; August 18, 2011; <https://www.businessgrouphealth.org/pressrelease.cfm?ID=179>

¹⁹ Towers Watson; Health Care Changes Ahead Survey report, October 2011; http://www.towerswatson.com/assets/pdf/5622/TW-survey-report_HC-Changes-Ahead_101411.pdf

²⁰ Business Insurance; “Defined benefit plans still in decline: Survey”; May 22, 2008; <http://www.businessinsurance.com/article/20080522/NEWS/200013030>

Making Health Insurance More Expensive

The numerous federal regulations, burdensome mandates, and job-killing taxes contained in the Democrats' health care law will drive up employers' costs of providing health insurance to their employees.²¹ Not surprisingly, 84 percent of employers who responded to the survey expect their future health care costs to increase faster than what they have experienced over the past five years.

As a direct result of the law, employers will now:

- Be forced to change their current health insurance coverage to comply with costly and burdensome mandates. In fact, the Obama Administration estimates that seven out of 10 employees in ESI will be in health plans that will be forced to change their current coverage;²²
- Face expensive new federal mandates on required benefits and plan design;²³
- Be forced to absorb additional overhead costs by providing costly benefits to what had previously been considered part-time employees or pay a fine;²⁴
- Have to comply with burdensome and intrusive information-reporting requirements;²⁵
- Be required to institute duplicative and unnecessary administrative appeals processes;²⁶ and
- Have to comply with federal mandates micromanaging the length, format, language, and delivery methods employers must use to summarize and describe their health benefit plan.²⁷

²¹ <http://waysandmeans.house.gov/News/DocumentSingle.aspx?DocumentID=182235>

²² <https://www.federalregister.gov/articles/2010/11/17/2010-28861/amendment-to-the-interim-final-rules-for-group-health-plans-and-health-insurance-coverage-relating>

²³ http://cciio.cms.gov/resources/files/Files2/12162011/essential_health_benefits_bulletin.pdf

²⁴ http://www.appwp.org/documents/hcr_groom-memo_irs-notice2011-36.pdf

²⁵ IRC §36B(c)(2)(C)(iii)

²⁶ <http://www.gpo.gov/fdsys/pkg/FR-2010-07-23/pdf/2010-18043.pdf>

²⁷ http://www.regulations.gov/#!documentDetail;D=HHS_FRDOC_0001-0441

Given these costly federal mandates, it is not surprising that employers who responded to the survey predict that health insurance costs will increase, on average, by 7.6 percent annually over the next several years. This rate of growth is 28.8 percent higher than what these employers reported experiencing over the last five years (5.9 percent), on average.

Consistent with the findings of this report, a separate survey of benefits and human resources executives managing health care costs shows the vast majority of respondents—about 85 percent—said they expect health care costs to rise in the next five years as a result of the law. 68 percent said they plan to re-evaluate their benefits strategy to offset the law's impacts.²⁸

The National Federation of Independent Business, which represents 350,000 small business owners, reported in July 2011 that:

- 75 percent of small businesses that offer health insurance do not believe the law will slow the rise in health care costs;
- 81 percent of small businesses that offer health insurance believe the law will not reduce paperwork or make health care less complex; and
- 79 percent of small businesses that offer health insurance believe they will see increased taxes.²⁹

²⁸ *Managing health care costs tops employer concerns: Survey*; March 15, 2012; <http://www.businessinsurance.com/article/20120315/NEWS03/120319940>

²⁹ *PPACA One Year Later: Small Business Owners Expect Costs to Rise*; <http://www.nfib.com/research-foundation/surveys/healthcare-year1>

Conclusion

No one can predict the future with certainty, but everyone can review the evidence and make rational conclusions. As a result of the Democrats' health care law, prior to the 2014 health plan year, employers in this survey will be faced with the following choice:

1. Struggle to manage the costs of what will become a more expensive and government-controlled health insurance plan because of the Democrats' health care law;

or

2. Drop health insurance coverage for their employees, thereby saving an average of more than \$402.3 million in 2014 alone.

The findings in this report underscore a warning from the U.S. Chamber of Commerce:

“Despite promises that the health reform law would build on the existing employer sponsored system, the [employer] mandate will in fact undermine it. It will be more affordable for employers to pay the penalty for not offering coverage than to offer coverage itself. And so, ironically, the employer mandate incents employers to stop offering health care coverage.”³⁰

In a globally competitive environment, which is the more likely choice? And, once the first major employer decides to take the more economic route of dropping health coverage and paying the employer mandate fine, the floodgates will open. As Paul Fronstin, research associate with the Employee Benefit Research Institute said, “If one employer [drops coverage], others likely will follow.”³¹

The fact that the Democrats' health care law fails to control health care costs and actually increases them, combined with the explicit financial incentives provided to employers to drop coverage, threatens the ability of 170 million Americans to retain their current employer-provided health insurance.

The evidence suggests millions of Americans could soon lose their current health coverage. This is just the tip of the iceberg given that this study only analyzed 71 Fortune 100 companies. There are tens of millions of additional Americans who receive health insurance through non-Fortune 100 companies with more than 50 full-time equivalent employees that will face a similar choice.

³⁰ *Repeal the Job-Killing Employer Mandate* by Bruce Josten; September, 14, 2011: <http://www.freeenterprise.com/2011/09/repeal-the-job-killing-employer-mandate/>

³¹ San Francisco Examiner: *Health care overhaul: Shift in benefits expected*; August 25, 2011: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2011/08/24/MNQU1KRH95.DTL>

Survey Instrument

On March 30, 2012, House Ways and Means Committee Chairman Dave Camp (R-MI) sent a letter to the CEOs of the Fortune 100 companies requesting the following information:

1. How many full-time (defined as working at least 30 hours per week) U.S.-based employees did your company employ in 2011?
2. How many part-time U.S.-based employees did your company employ in 2011? What was the average number of hours your part-time employees worked in a given week in 2011?
3. Did you provide health insurance to your full-time U.S.-based employees in 2011?
 - A. If yes to 3, how many covered lives, including spouses and/or dependents, were enrolled in the health coverage you offered to your full-time employees in 2011?
 - B. If yes to 3, what was your total after-tax cost for health insurance policies, including administrative costs, for coverage offered to full-time employees in 2011?
4. Did you provide health insurance to your part-time employees in 2011?
 - A. If yes to 4, how many covered lives, including spouses and/or dependents, were enrolled in the health coverage you offered to your part-time employees in 2011?
 - B. If yes to 4, what was your total after-tax cost for health insurance policies, including administrative costs, for coverage offered to part-time employees in 2011?
5. Did you provide health care coverage (including comprehensive, supplemental, or prescription drug coverage) to your retired employees in 2011?
 - A. If yes to 5, how many covered lives, including spouses and/or dependents, were enrolled in the health coverage you offered to your retired employees in 2011?
 - B. If yes to 5, what was your total after-tax cost for health insurance policies, including administrative costs, for coverage offered to retired employees in 2011?
6. Over the last five years, what was the average annual rate of growth of health care expenditures for your company?
7. Have you estimated what you expect the future annual rate of increase in health care expenditures? If so, please provide the estimates.

The Committee received timely responses from 71 Fortune 100 companies. The raw data from the responses was aggregated and specific company responses are, and will remain, confidential. The information reported on the number of employees and total costs represents the total aggregation. The information reported on the average after-tax cost per employee is the total costs divided by the total number of employees. The information reported on the average annual growth rate for the past five years and the expected future growth rate are averages of all responses received.