Can Economic Recovery Legislation Be Most Effective in Helping Laid-off Workers Obtain Health Coverage?

Timely Analysis of Immediate Health Policy Issues

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Summary

Pending economic recovery legislation proposes to subsidize health coverage for laid-off workers. To help such workers buy insurance available under the Comprehensive Omnibus Budget Reconciliation Act of 1985 (COBRA), the House and Senate bills would pay 65 and 50 percent of premiums, respectively, which is too little to make coverage affordable to people who have lost their jobs. An existing program that pays 65 percent of premiums for workers laid-off because of trade liberalization enrolls only 12 to 15 percent of eligible workers.

Limiting assistance to COBRA subsidies, as in the Senate bill, would deny help to the many uninsured, laid-off workers who are ineligible for COBRA. Some worked for companies that have gone out of business or were too small to be governed by COBRA or similar state laws; others did not receive health coverage from their former employers. Given the need to respond quickly to the current economic emergency, it would be more reasonable to help laid-off workers who are ineligible for COBRA by expanding the existing Medicaid program, as in the House bill, than by creating a new federal program.

While increasing the number of laid-off workers who obtain health coverage would generate economic stimulus, cost constraints may prevent some laid-off workers from receiving assistance. Congress could thus deny both COBRA subsidies and Medicaid to workers with incomes above specified, moderate levels. If Congress must prioritize among laid-off, uninsured workers, it may be particularly important to retain the House-passed Medicaid expansion that focuses on low-income households, thereby helping those who are in the most difficult economic straits and so have the least access to coverage and care.

Introduction

Economic recovery legislation now before the Conference Committee would subsidize health coverage for uninsured, laid-off workers and their families. This paper describes the proposals that have been passed by the House and Senate and analyzes the policy choices facing the Conference Committee.

The Senate Proposal

The Senate bill subsidizes insurance that employers must offer laid-off workers under the Comprehensive Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA applies to companies that have 20 or more employees and that offer health insurance. When such a company terminates a worker whom it previously insured, the company must continue to offer coverage for at least 18 months.[1] To enroll, the worker must pay the full premium, plus a 2 percent administrative fee. Under the Senate proposal:

- Subsidies pay 50 percent of the cost of enrolling in COBRA plans or coverage offered by smaller employers that are subject to similar state-law requirements. Forty states have such “mini-COBRA” laws.[2]
- The subsidies are available to workers who lost their jobs between September 1, 2008, and December 31, 2009. For each recipient, the subsidies end after 12 months. Workers with access to employer-sponsored insurance (ESI) offered by any firm other than their former

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employer are ineligible for subsidies, as are laid-off workers who qualify for Medicare.

The House Proposal

The House proposal includes a COBRA subsidy that pays 65 percent rather than 50 percent of premiums. The proposal also gives state Medicaid programs new options to cover certain involuntarily unemployed workers and their dependents. Through December 31, 2010, full federal financing, without any state matching requirement, covers health care spending and administrative costs related to eligibility and enrollment. States can cover some or all of the following groups:

1. Recipients of unemployment insurance (UI) and, at state option, people who exhausted their UI at any point after June 30, 2008. No income or asset test applies to these individuals.
2. Involuntarily unemployed workers with gross incomes up to a percentage of the federal poverty level (FPL)[3] specified by the state, not to exceed 200 percent.
3. Involuntarily unemployed workers living in households who receive Food Stamps (recently renamed the "Supplemental Nutrition Assistance Program" or SNAP).

These categories are limited to the uninsured who lost their jobs between September 1, 2008, and December 31, 2010,[4] but they include people who decline offers of dependent coverage from spousal employers. Full federal funding is available only for individuals who are otherwise ineligible for Medicaid. As with other Medicaid coverage, benefits are comprehensive, and cost-sharing is minimal, although states can raise costs for beneficiaries who are not poor.

As table 1 shows, COBRA subsidies are projected to cost more than the new Medicaid options. And under both chambers' bills, most spending (89 percent in the Senate and 92 percent in the House) is complete by September 30, 2010 – the end of fiscal year 2010 (Figure 1).

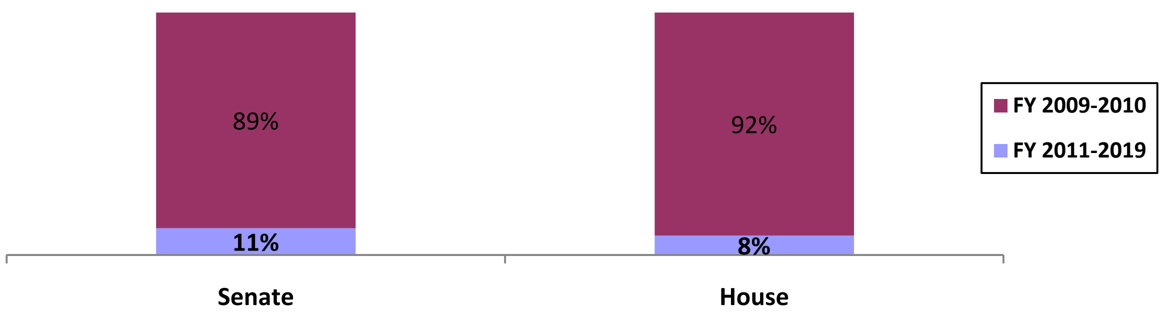
Table 1. Projected Cost of Health Coverage Subsidies for Laid-off Workers, Senate and House Proposals: FY 2009–FY 2019

	FY 2009	FY 2010	FY 2011	FY 2012-2019	FY 2009-2019
Senate COBRA subsidy	**10.9**	**9.6**	**2.3**	**0.2**	**23.0**
House					
COBRA subsidy	13.8	10.9	2.4	0	26.7
Medicaid option	4.9	7.1	1.2	0.2	13.3
Total	**18.7**	**18.0**	**3.6**	**0.2**	**40.0**

Source: Congressional Budget Office, January 26, 2009, and February 9, 2009 (Cost estimates for H.R. 1).

Note: this table does not include the tax revenue increases attributable to the COBRA subsidy from FY 2012–2019, which are reflected in the 11-year totals.

Figure 1. Proportion of Spending on Health Coverage Subsidies for Laid-off Workers That Takes Place During Various Periods, Senate and House Proposals: FY 2009–FY 2019



Source: Congressional Budget Office, January 26, 2009, and February 9, 2009 (Cost estimates for H.R. 1)

According to preliminary estimates from the Congressional Budget Office (CBO), the House bill will cover 7.0 million people through COBRA and 1.2 million through Medicaid in 2009.[5] As this report goes to press, comparable estimates are not available for the final version of the Senate proposal.

Policy Choices Facing the Conference Committee

This section of the paper examines the following questions:

- How can COBRA subsidies be effective?
- Should Congress help only unemployed workers who have access to COBRA plans?
- Should Medicaid be used to cover some of the unemployed uninsured?
- If Congress limits the cost of this initiative so that not all laid-off, uninsured workers receive coverage, what limits would make the most sense?

How can COBRA subsidies be effective?

The House and Senate COBRA proposals share many strengths[6] but also a critical weakness: neither proposal provides a large enough subsidy that laid-off workers can afford to buy coverage. This is illustrated by experience with Health Coverage Tax Credits (HCTC), which pay 65 percent of health insurance premiums for workers who are certified by the U.S. Department of Labor as losing their jobs because of trade liberalization.[7] Only 12 to 15 percent of eligible households participate in HCTC.[8] The most important reason is that HCTC-eligible workers are generally unable to afford to pay 35 percent of premiums.[9]

The House and Senate proposals ask the unemployed to pay 35 and 50 percent of premiums, respectively. This is significantly more than what *employed* workers pay for coverage, which averages 16 percent of premiums for worker-only insurance and 27 percent for family coverage.[10] It is unrealistic for Congress to expect that workers will increase the amount they pay for health insurance when their income drops because of job loss.

Lawmakers should not necessarily base their decisions on the coverage estimates included in CBO's projections. During the first two years of HCTC, expenditures were only 24 percent of the amounts forecast when HCTC legislation was enacted.[11]

To avoid a recurrence of low participation rates, lawmakers need to increase substantially the subsidy percentage. One logical benchmark is the 80 percent COBRA subsidy paid by Massachusetts's Medical Security Program, which for 20 years has provided health coverage to unemployed workers—the only such state-level program.[12] After long experience that includes varying subsidy levels, that state's policymakers have concluded that 80 percent subsidies are needed to make coverage affordable to the newly unemployed.[13] The 80 percent subsidy embodies the notion that workers who lose their jobs cannot reasonably be expected to pay more for health insurance than when they were employed.[14]

Implications of limiting subsidies to unemployed workers with access to COBRA

Subsidies limited to COBRA or mini-COBRA plans would deny assistance to the following groups of uninsured, laid-off workers, and their families:

- Unemployed workers whose former employers are no longer governed by COBRA because they have gone out of business or stopped offering coverage to their current employees;
- Unemployed workers who, before job loss, were employed and covered by small firms that were governed by neither COBRA nor state mini-COBRA laws; and
- Unemployed workers who did not receive coverage from their employers before job loss.

Such limits would adversely affect low-income households. Among workers with incomes below 200 percent of FPL in 2008, 38 percent would likely qualify for COBRA if they lost their jobs, compared to 76 percent among workers with incomes above that threshold.[15]

Policymakers may still decide to help only laid-off, uninsured workers who lost coverage when they became unemployed, but that would ignore the impact of job loss on workers who were uninsured before they were laid off. Unemployment can create or worsen significant medical problems.[16] In addition, job loss typically reduces household income by substantial amounts.[17] This may make it more difficult for the previously uninsured to obtain medical care; out-of-pocket payments from the uninsured now cover an average of 35 percent of all their health care costs.[18]

Many policymakers advocate stimulating the economy through productive public investments that address problems that preceded the recession, such as crumbling roads and bridges. Such a goal could also favor helping unemployed, uninsured workers who were uninsured before job loss. And regardless of when laid-off workers became uninsured, increasing the number who obtain coverage generates economic stimulus; if insurers receive additional revenue and health care providers receive additional reimbursement, insurers and providers can hire more workers.[19]

Using Medicaid to cover laid-off, uninsured workers

If policymakers decide to provide health insurance to laid-off, uninsured workers without access to COBRA, they will not have the time to carefully design and implement a new health coverage program. The current economic emergency and the consequent need for speed make it hard to see a practical alternative to Medicaid, which already covers millions of low-income families and regularly determines eligibility for means-tested subsidies.[20]

Limiting the proposal's cost

Many economists believe that, in the current economic crisis, the greater risk is doing too little, rather than too much to stimulate the economy.[21] On the other hand, Congressional leaders may believe that, for economic recovery legislation to pass, the total cost of health coverage subsidies for laid-off workers needs to be limited. If so, subsidies could be increased for each recipient but limited to people with incomes at or below a specified level.[22] For example, the Massachusetts program mentioned above denies subsidies to people with incomes above 400 percent of FPL.[23] Policymakers could likewise limit COBRA subsidies to the nine month period in the original Senate bill or require any newly eligible Medicaid beneficiaries to enroll in dependent coverage offered by spousal employers.[24] If policymakers are forced to choose between COBRA subsidies and Medicaid coverage, it may be most important to retain the proposed assistance that targets those who are in particularly difficult economic straits—namely, the House bill's Medicaid coverage for low-income, laid-off workers who lack health insurance.

Conclusion

Without major changes, pending proposals will almost certainly fail to cover large numbers of laid-off workers and their families. However, revising these proposals to improve their chance of success would increase federal costs. Such spending may be worthwhile, as economic stimulus would result from covering the largest possible number of unemployed workers who would otherwise lack health insurance. If policymakers nevertheless decide to limit the proposal's cost, eligibility for all subsidies could be means-tested, and lawmakers could retain, at a minimum, the House-proposed Medicaid options that target laid-off workers and their families who have low incomes.

Notes

[1] For further information about COBRA, see U.S. Department of Labor (DOL), Employee Benefits Security Administration, *Frequently Asked Questions about COBRA Continuation Health Coverage*, downloaded on January 20, 2009, from http://www.dol.gov/ebsa/FAQs/faq_compliance_cobra.html.

[2] Kaiser Family Foundation, "Expanded COBRA Continuation Coverage for Small Firm Employees, 2007," *Statehealthfacts.org*.

[3] For 2009, the federal poverty level is $10,830 for an individual, $22,050 for a family of four, etc.

[4] The one exception involves the eligibility group consisting of people who exhausted UI. Members of this group can qualify if they lost their jobs at any time after June 30, 2008, as indicated above.

[5] House Committee on Energy and Commerce Report, *Energy And Commerce Recovery And Reinvestment Act* [To accompany H.R. 629], January 2009 (report number not yet assigned).

[6] Both COBRA proposals (a) recognize that subsidies will be needed for most unemployed workers to afford COBRA coverage; (b) assist involuntarily unemployed workers who do not receive UI; (c) deny eligibility to people with access to other ESI, thus focusing assistance on those who most need help; and (d) are structured to avoid the serious cash flow problems experienced by beneficiaries of Health Coverage Tax Credits (HCTC) as well as HCTC's high administrative costs.

[7] HCTC also goes to certain early retirees who receive payments from the Pension Benefit Guaranty Corporation because their former employers no longer pay promised defined benefit pensions.

[8] Stan Dorn, *Health Coverage Tax Credits*: *A Small Program Offering Large Policy Lessons*, prepared by the Urban Institute for the Robert Wood Johnson Foundation, February 1, 2008.

[9] DOL Office of Inspector General, *Performance Audit Of Health Coverage Tax Credit (HCTC) Bridge And Gap Programs*, Report Number: 02-05-204-03-330, September 30, 2005; Government Accountability Office (GAO), *Trade Adjustment Assistance: Most Workers in Five Layoffs Received Services, but Better Outreach Needed on New Benefits*, GAO-06-43, January 2006; GAO, *Health Coverage Tax Credit: Simplified and More Timely Enrollment Process Could Increase Participation*, GAO-04-1029, September 2004. To be clear, other factors also limit HCTC take-up. In many states, workers must pay premiums in full while they wait for the advance credit to begin; HCTC enrollment is complex and confusing; and coverage is often of little value to workers because gaps in coverage allow the exclusion of preexisting conditions. While overcoming these factors could raise participation above the 12 to 15 percent level, the remaining affordability problems would keep take-up rates low.

[10] Kaiser Family Foundation and the Health Research and Educational Trust, *2008 Employer Health Benefits Survey*, September 24, 2008.

[11] By the third year, expenditures climbed to 29 percent of forecast levels. Stan Dorn, *Take-Up of Health Coverage Tax Credits: Examples of Success in a Program with Low Enrollment*, prepared by the Urban Institute for The Commonwealth Fund, December 2006.

[12] The program also includes a "Direct Coverage" option that provides premium-free coverage through a Blue Cross/Blue Shield HMO to (a) unemployed workers without access to COBRA and (b) unemployed workers with incomes at or below 200 percent of FPL, whether or not they have access to COBRA.

[13] When the COBRA subsidy dropped to 75 percent of the premium, it was generally viewed as insufficient for many unemployed workers. Monica Hallas, personal communication, January 2009. On the other hand, in a 2001 national survey, 59 percent of workers, including 64 percent of those with incomes above 200 percent of FPL, reported that, if they lost their jobs, a 75 percent premium subsidy would make them very likely to enroll in COBRA continuation coverage. Jennifer N. Edwards, Michelle M. Doty, and Cathy Schoen, *The Erosion of Employer-Based Health Coverage and the Threat to Workers' Health Care*, The Commonwealth Fund, August 2002.

[14] No data show the take-up rate for the MSP program, but most observers believe it is low, for several reasons: very little outreach and community education has taken place; state officials do not link the UI application with enrollment into MSP; UI offices are swamped with applications for UI benefits during times like the present, when demand for help is very high, making it more difficult for MSP applicants to obtain information and apply for coverage; and the COBRA subsidy program requires workers to pay their first month's premium in full, receiving 80 percent reimbursement by the end of the month. Hallas, op cit.; Robb Smith, personal communication, February 2009; Brian Rossman, personal communication, February 2009.

[15] Michelle M. Doty, Sheila D. Rustgi, Cathy Shoen, and Sara R. Collins, *Maintaining Health Insurance During a Recession: Likely COBRA Eligibility*, The Commonwealth Fund, January 2009.

[16] See C. D. Mathers and D. J. Schofield, "The Health Consequences of Unemployment: The Evidence," *Medical Journal of Australia*, 168:178-182 (1998); P. Martikainen, T. Volkonen, "Excess Mortality of Unemployed Men and Women During a Period of Rapidly Increasing Unemployment," *Lancet* 348: 909-912 (1996); K. A. Moser, P. O. Goldblatt, A. J. Fox, D. R. Jones, "Unemployment and Mortality: Comparison of the 1971 and 1981 Longitudinal Study Census Samples," 1 *BMJ* 86-90 (1987); M. Linn , R. Sandifer, S. Stein, "Effects of Unemployment on Mental and Physical Health," *American Journal of Public Health*, 75:502-506 (1985); S. Shortt, "Is Unemployment Pathogenic? A Review of Current Concepts with Lessons for Policy Planners," *International Journal of Health Services*, 26(3): 569-589 (1996); R. L. Jin, C. P. Shah, T. J. Svobada, "The Impact of Unemployment on Health: A Review of the Evidence," *Canadian Medical Association Journal*, 153 (5): 529-540 (1995).

[17] Median income of UI recipients falls by 60 percent when UI payments are not included in the analysis. Taking into account UI payments cuts the median income drop to 40 percent. Ralph E. Smith, *Family Income of Unemployment Insurance Recipients*, Congressional Budget Office, March 2004.

[18] Other care costs are covered as follows: 14 percent by public programs, 20 percent by private sources, and 32 percent in uncompensated care. Author's calculation from Jack Hadley, John Holahan, Teresa Coughlin, and Dawn Miller, "Covering The Uninsured In 2008: Current Costs, Sources Of Payment, And Incremental Costs," *Health Affairs*, September/October 2008; 27(5): w399-w415.

[19] Reducing the number of uninsured also decreases pressure on localities to raise taxes to fund indigent care, and such tax increases can dampen economic growth.

[20] Medicaid also has the advantage of providing coverage with little or no cost-sharing, thus addressing the needs of laid-off workers who have little discretionary income. In addition, after adjusting for enrollee risk levels, Medicaid is much less costly than private coverage. Adjusted Medicaid costs per capita are 29 percent below private levels for adults and 10 percent lower for children. Jack Hadley and John Holahan, "Is Health Care Spending Higher under Medicaid or Private Insurance?" *Inquiry* Winter 2003/2004, 40(4): 323–342. On the other hand, not all states will implement the new Medicaid options; low provider reimbursement rates limit access to care; Medicaid application procedures may deter enrollment by laid-off workers unaccustomed to dealing with welfare agencies; and 100 percent federal matching payments lessen state incentives to efficiently manage premium payment levels and fee-for-service costs. The first two problems are inherent in the basic approach of creating new Medicaid eligibility options to serve laid-off workers. However, the latter two problems can be addressed through effective program management. Particularly if legislative history provides strong direction, the Centers for Medicare and Medicaid Services (CMS) can (a) encourage states to use available options for streamlined and simplified enrollment, to take applications by mail, by phone, and on-line, to place eligibility workers in community sites familiar to laid-off workers, and to contract with community agencies to facilitate enrollment; and (b) ensure that capitated payments and fee-for-service reimbursements for the new eligibility groups remain within specified margins of average costs for existing eligibility categories. See generally Section 1903(m)(2)(A)(iii) of the Social Security Act, requiring capitated payments to be "actuarially sound," and Section 1902(a)(4)(A), requiring states to apply "methods of administration" that "are found by the Secretary to be necessary for the proper and efficient operation of" the Medicaid program.

[21] See generally Statement of Douglas W. Elmendorf, Director, Congressional Budget Office, *The State of the Economy and Issues in Developing an Effective Policy Response,* before the Committee on the Budget, U.S. House of Representatives, January 27, 2009; Written Testimony of Mark Zandi, Chief Economist and Cofounder, Moody's Economy.com, *The Economic Outlook and Budget Challenges,* before the Committee on the Budget, U.S. House of Representatives, January 27, 2009.

[22] Income could be determined by Social Security Administration (SSA) offices, which presently decide eligibility for several means-tested benefits (Supplemental Security Income and Medicare Part D Low-Income Subsidies). It would be important to direct SSA to use simplified, streamlined methods of applying for and processing applications, taking advantage of available third-party data documenting income, and permitting applications on-line, by telephone, and by mail. People could automatically qualify if their only income consisted of UI payments.

[23] Income is measured on a 12-month basis, incorporating the 6 months before the worker applies for coverage as well as a projection of income during the next 6 months. This balances applicants' current economic circumstances with a measure of past capacity for savings.

[24] Section 1906 of the Social Security Act authorizes states to compel enrollment in available ESI, paying premiums and out-of-pocket cost-sharing when such enrollment would be cost-effective. However, with new eligibility categories that involve 100 percent federal financing, Congress needs to mandate the application of Section 1906 (consistent with standards and guidance from the Secretary), since only the federal government would thereby achieve savings. In addition, for Section 1906 to generate enrollment in private health plans outside normal enrollment periods, Congress may need to amend the federal statutes that govern enrollment into ESI, building on the steps already taken in Title III of the recently enacted Children's Health Insurance Program Reauthorization Act of 2009.

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