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A NEW “PAY-OR-PLAY” MANDATE WOULD COST EMPLOYERS AND WORKERS AN ADDITIONAL \$71.3 TO \$135.1 BILLION PER YEAR

By D. Mark Wilson

As a means for expanding access to affordable health care insurance for all Americans, Congress is considering an employer “pay-or-play” mandate.¹ Although all of the details of the mandate are not available because health reform legislation has not been introduced, this analysis examines the options that were presented in papers released by the Senate Finance Committee. Under those proposals, a pay-or-play mandate would require:

- Employers with more than \$500,000 in total payroll to offer their full-time (30 hours or more) employees health insurance coverage or pay an assessment.
- The health insurance offered must have an actuarial value equal to the lowest coverage option, as defined by the federal government, which would be required to be offered to workers.
- The employer would be required to contribute at least 50 percent of the premium for the health insurance.

Employers that do not offer the required minimum level of coverage and premium contributions to their employees would have to pay a penalty. The options for the penalty include an excise tax calculated as an amount per employee per month based on the employer’s gross receipts for the taxable year.

- For employers with total annual payroll between \$500,000 and \$1,000,000, the excise tax would be \$100 per employee per month.
- For employers with total annual payroll between \$1,000,000 and \$1,500,000, the excise would be \$250 per employee per month.

¹ *Expanding Health Care Coverage: Proposals to Provide Affordable Coverage to All Americans*, Senate Finance Committee, May 20, 2009, available at: <http://finance.senate.gov/sitepages/leg/LEG%202009/051109%20Health%20Care%20Description%20of%20Policy%20Options.pdf>.

- For employers with total annual payroll greater than \$1,500,000, the excise tax would be \$500 per employee per month.²

The proposed mandate will cost an additional \$71.3 billion if employers choose to “pay” the excise tax for uninsured workers, to an additional \$135.1 billion if employers choose to “play” and offer health insurance coverage that complies with the mandate.³ The employer share of this annual cost ranges from \$67.5 billion to \$96.2 billion depending on how much of the annual premium employers pay.⁴ Therefore, the share of the annual cost that workers would pay ranges from \$67.5 billion to \$96.2 billion. The employer share of the cost would be a 16.9 percent to 24.1 percent increase in the amount that employers spent on health insurance premiums in 2007, and represents 4.6 percent to 6.5 percent of 2008 corporate profits.⁵

Employer-Provided Mandated Benefits Will Reduce Wages and Cost Jobs

There is a consensus among most economists that the cost of an employer mandate to provide health insurance will be passed on to workers in the form of lower wages and reduced job opportunities.⁶ Clearly, any employer mandate will increase labor costs for firms that are not providing health insurance or are providing insurance that falls below the new mandated coverage and premium contribution requirements.

Several factors affect the degree to which the mandate will reduce wages and job opportunities. The first is the relative cost of the mandated health insurance. The second is the degree to which employers can increase productivity to offset the new cost. The third is the degree to which employers can reduce the growth of workers’ wages or other

² Another option being considered would be to require these employers to pay a tiered penalty based on total annual payroll equal to: two percent of payroll between \$500,000 and \$1,000,000; four percent of payroll between \$1,000,000 and \$1,500,000; and six percent of payroll over \$1,500,000. A final option might be to require a larger penalty only on firms with total annual payroll of \$1,500,000 or more.

³ These incremental costs are consistent with other estimates and are not new national resources being devoted to health care but, rather, represent a transfer of spending from one type of coverage to another. See: Jack Hadley, John Holahan, Teresa Coughlin, and Dawn Miller, *Covering the Uninsured in 2008: Current Costs, Sources of Payment, and Incremental Costs*, Health Affairs, Web Exclusive, August 25, 2008.

Moreover, the net impact on employer-provided health insurance premiums may be less if comprehensive reform reduces administrative costs and cost shifting, and requires younger healthier workers to obtain health insurance.

⁴ The mandate option requires employers to pay at least half of the premium. Alternatively, employers could continue to pay for an average 84.8% of single PPO coverage and 68.8% of family PPO coverage (see The Kaiser Family Foundation, Annual Report, Exhibit 6.5).

⁵ EBRI Data Book, Chapter 34, Table 34.2, available at: www.ebri.org/pdf/publications/books/databook/DB.Chapter%2034.pdf, and the Bureau of Economic Analysis.

⁶ Katherine Baicker and Helen Levy, *Employer Health Insurance Mandates and the Risk of Unemployment*, NBER, Working Paper 13528, October 2007; Craig Olsen, *Do Workers Accept Lower Wages in Exchange for Health Benefits?*, *Journal of Labor Economics*, Vol. 20, No. 2, Pt. 2, 2002; Norman Thruston, *Labor Market Effects of Hawaii’s Mandatory Employer-Provided Insurance*, *Industrial and Labor Relations Review*, October 1997; Jonathan Gruber, *The Incidence of Mandated Maternity Benefits*, *American Economic Review*, June 1994; Jonathan Gruber and Alan Kruger, *The Incidence of Mandated Employer-Provided Insurance: Lessons from Workers’ Compensation Insurance*, *Tax Policy and the Economy*, Vol. 5, 1991.

benefits. The fourth is how many unskilled low-wage workers are effected by the mandate; and the fifth is the degree to which employers can pass along the cost of the mandate to customers through higher prices, which effectively lowers real (inflation-adjusted) wages.

Further, any impact of an employer mandate will depend on its terms. Specifically, are smaller firms and part-time workers exempted from the mandate, and what portion, if any, of the health insurance premium is the employer required to pay. Of course any limitations on the applicability of the mandate will dilute the positive and negative effects it will have on workers.

About 784,302 Large Firms and 88.2 Million Workers Would be Covered by a Mandate

According to the latest available data by annual payroll size, in 2006, 784,302 large firms with 97.4 million workers would be covered by the proposed mandate (see Table 1).⁷ On average, each of these firms employs 124 workers, however, only those employees who work 30 or more hours per week would be covered. Most firms, 5.2 million or 87 percent, with 22.5 million employees would not be covered by the mandate.

Table 1: The Number of Firms and Workers Covered by the Senate “Pay or Play” Employer Mandate Option by Annual Payroll Size, 2006

Annual Payroll Size of the Enterprise	Firms	Employment	Average Number of Employees per Firm
Not Covered by the Mandate			
< \$500,000 per year	5,237,825	22,507,307	4
Covered by the Mandate			
\$500,000 - \$999,999	362,720	7,730,946	21
\$1 Mill. - \$1.499 Mill.	134,580	4,593,467	34
\$1.5 Mill. or more	287,002	85,085,445	296
Covered Subtotal	784,302	97,409,858	124
Grand Total	6,022,127	119,917,165	20

Source: Unpublished U.S. Census Bureau County Business Pattern data tabulated for Applied Economic Strategies, LLC.

⁷ Unpublished U.S. Census Bureau 2006 County Business Pattern data tabulated for Applied Economic Strategies, LLC.

In 2007, approximately 98.4 million wage and salary employees worked in firms that likely would be covered by the mandate, and 88.2 million worked 30 or more hours per week (see Table 2 below).⁸ Another 10.2 million employees, or 10.4 percent, worked less than 30 hours per week and would not be covered by the mandate.

Of the 88.2 million employees who would be covered by the mandate 64.0 million workers already have employer-based health insurance in their own name and 9.7 million are dependents that have employer-based health insurance under another worker’s plan.⁹ Most importantly, 14.6 million employees who would be covered by the mandate do not have any employer-based health insurance and would have to be offered at least the minimum plan under the mandate (see Table 3 below) in order for their employer to avoid the penalty, including 9.7 million that do not have any health insurance at all and 4.9 million that have some other type of insurance coverage besides an employer-provided plan.

Table 2: The Number of Workers Covered by the “Pay or Play” Mandate by Employment Size of the Firm, 2007

Employment Size Class	Number of Workers (1,000s)	Full-Time 30 + Hours	Part-time
Likely Not Covered			
< 10 Employees	15,845	12,768	3,077
10 to 24 Employees	12,147	10,338	1,809
Subtotal	27,992	23,106	4,886
Likely Covered			
25 + Employees	98,441	88,235	10,206
Grand Total	126,433	111,341	15,092

Source: Applied Economic Strategies LLC, estimates from Census Bureau March 2008 ASEC Supplement.

⁸ Applied Economic Strategies LLC estimate based on U.S. Census Bureau 2008 ASEC Supplement data. This estimate is based on the response to the survey question “Counting all locations, what is the total number of persons who work for your employer?” and closely corresponds to the Census Bureau’s 2006 County Business Pattern data in Table 1.

⁹ Applied Economic Strategies LLC estimate based on U.S. Census Bureau 2008 ASEC Supplement data.

Table 3: The Type of Health Insurance Workers Covered by the "Pay or Play" Mandate Currently Have, 2007

Type of Health Insurance	Number of Workers (1,000s)
Have Employer-Based Health Insurance	73,626
Do Not Have Employer-Based H.I.	14,609
No Health Insurance	9,710
Have Other Types Of Insurance	4,899
Total	88,235

Source: Applied Economic Strategies LLC, estimates from Census Bureau March 2008 ASEC Supplement data.

Although it is difficult to know how many of the 14.6 million workers who do not currently have employer-based coverage and would be covered by the new mandate would enroll in employer-based health insurance when it is offered, it is highly likely that the Senate proposed individual mandate would encourage most, if not all, of the 9.7 million workers with no health insurance to enroll in the employer-based plan (see Table 3 above). It is also likely that many of the 1.5 million workers with Medicaid coverage and the 1.4 million workers who have directly purchased insurance would transfer from their current coverage to employer-based insurance under the mandate because employer-based coverage is, on average, a better insurance value for workers than either Medicaid or directly purchase health insurance (see Table 4).¹⁰ It is difficult to predict how many of the 892,000 workers with other combinations of health insurance would take up the offer, however, some would.¹¹ As a result, the net increase in the number of workers with employer-based coverage due to the mandate would be about 12.8 million (see Table 4).

Table 4: The Number of Workers Covered by the Senate "Pay or Play" Option Who Would Likely Enroll In Employer-Provided Health Insurance Under the Mandate

Current Health Insurance Status of Workers Who do Not Have Employer-Based Health Insurance	Number of Workers (1,000s)
No Health Insurance	9,710
Have Other Types of Insurance	3,107
Total	12,817

Note: These estimates assume a 100% take-up rate for those workers without health insurance; that no workers with Military Insurance or Medicare would take-up employer-based insurance under the mandate; and an 81.5% take-up rate for workers who currently have other types of insurance (Medicaid, Direct Purchase, other coverage).

Source: Applied Economic Strategies LLC, estimates from Census Bureau March 2008 ASEC Supplement.

¹⁰ Applied Economic Strategies LLC, estimates from Census Bureau March 2008 ASEC Supplement data.

¹¹ *Id.*

Pay-Or-Play Mandate Would Cost Employers \$427 to \$1,078 Per Month Per Worker

Under the proposed “pay-or-play” mandate, qualified employers would have to offer their full-time employees health insurance that has an actuarial value equal to the lowest of four coverage options described in the Senate Finance options paper. Further, according to the proposal, the medium coverage option is approximately equal to the Federal Employees Health Benefit Program Blue Cross Blue Shield Standard Option, or \$1,120 per month for family coverage and \$489 per month for individual coverage (see Table 5).¹²

**Table 5: Average Monthly Cost of the “Play” Option
In the Mandate**

Health Insurance "Play" Option	Actuarial Value	Monthly Cost for Family Coverage	Monthly Cost for Individual Coverage
Four Mandate Options			
High PPO Option	0.93	\$1,198	\$523
Medium PPO Option	0.87	\$1,120	\$489
Low PPO Option	0.82	\$1,056	\$461
Lowest PPO Option	0.76	\$979	\$427
Average PPO Premium Offered by Employers, 2008		\$1,078	\$400

Estimates by AES using data from the Senate Finance Committee Options Paper; the Office of Personal Management; and the Kaiser Family Foundation.

The cost of the lowest-cost mandated health insurance option is approximately \$979 per month for family coverage and \$427 per month for individual coverage. The average monthly insurance premium for PPO plans currently being offered by employers costs \$1,078 per month for family coverage and \$400 per month for individual coverage (see Table 4).¹³ Therefore, under the mandate employers are likely to continue offering their family coverage which costs \$1,078 per month and will likely have to increase the value of the individual coverage they offer to \$427 per month in order to comply with the mandate.

Under the proposed mandate employers would be required to contribute at least 50 percent of the premium, with workers contributing the remaining 50 percent. On average, employers are currently paying 84.8 percent of the premium for single coverage PPO plans and 68.8 percent of the premium for family coverage PPO plans.¹⁴ Therefore,

¹² U.S. Office of Personnel Management, available at: www.opm.gov/insure/archive/health/09rates/nonpostalffs2009.pdf.

¹³ The Kaiser Family Foundation, *Employer Health Benefits, Annual Survey, 2008*, Exhibit 1.1.

¹⁴ The Kaiser Family Foundation, *Employer Health Benefits, Annual Survey, 2008*, Exhibit 6.5.

at the outset, the mandate would (on average) not require employers to increase their share of the premiums they currently pay for covered workers.

If employers do not offer their full-time employees health insurance that has an actuarial value equal to the lowest coverage option, under the proposed pay-or-play mandate they would have to pay an excise tax to offset some of the government's cost of providing health care to uninsured workers. Two options have been proposed: either 1) a certain amount per employee per month depending on the size of the firm's annual payroll (see Table 6), or a certain percentage of payroll per month.¹⁵

Table 6: Average Monthly Cost of the "Pay" Option of the Mandate

Annual Payroll Size	Monthly Cost Per Worker
\$500,000 to \$1 Million	\$100
\$1 to \$1.5 Million	\$250
\$1.5 Million or More	\$500

Source: Senate Finance Committee Options Paper.

Total Annual Cost Of The Pay-Or-Play Mandate Would Be \$71.3 Billion to \$135.1 Billion

The total annual cost of the pay-or-play mandate is \$135.1 billion if employers choose to "play" and offer family coverage that costs \$1,078 per month and individual coverage that costs \$427 per month in compliance with the mandate (see Table 7).

The employer share of this annual cost ranges from \$67.5 billion to \$96.2 billion depending on how much of the annual premium employers pay, or an increase of 16.9 percent to 24.1 percent of the amount that employers spent on health insurance premiums in 2007.¹⁶ The mandate option requires employers to pay at least half of the premium (the lower estimate of the range in Table 7). Alternatively, employers could continue to pay the average share of the premiums for the insurance they currently provide to workers – 84.8 percent of single PPO coverage and 68.8 percent of family PPO coverage (the higher estimate of the range in Table 7).¹⁷

The share of the annual cost that workers would pay ranges from \$38.9 billion to \$67.5 billion, again depending on how much of the annual premium employers pay.

¹⁵ Another option being considered would be to require these employers to pay a tiered penalty based on total annual payroll equal to: two percent of payroll between \$500,000 and \$1,000,000; four percent of payroll between \$1,000,000 and \$1,500,000; and six percent of payroll over \$1,500,000.

¹⁶ EBRI Data Book, Chapter 34, Table 34.2, available at: www.ebri.org/pdf/publications/books/databook/DB.Chapter%2034.pdf. These increases would be in addition to any increases in health cost inflation.

¹⁷ The Kaiser Family Foundation, Annual Report, Exhibit 6.5.

The total annual cost of the pay-or-play mandate is \$71.3 billion if employers choose to “pay” the excise tax for uninsured workers (see Table 8). Most of this cost, \$63.8 billion, would be borne by employers with annual payrolls greater than \$1.5 million per year.

Table 7: Annual Cost Of Proposed Pay or Play Mandate If Employers "Play"

Current Status of Covered Workers	Number of Workers (1,000s)	Average Monthly Premium	Total Annual Cost (billions)	Employer Share of Annual Cost (billions)	Worker Share of Annual Cost (billions)
Do Not Have Employer-Based H.I.					
No Health Insurance					
Individuals	3,076	\$427	\$15.8	\$7.9 to \$13.4	\$2.4 to \$7.9
Family Members	6,634	\$1,078	\$85.8	\$42.9 to \$59.0	\$26.8 to \$42.9
Other Combinations of H.I.					
Individuals	860	\$427	\$4.4	\$2.2 to \$3.7	\$0.7 to \$2.2
Family Members	2,247	\$1,078	\$29.1	\$14.5 to \$20.0	\$9.1 to \$14.6
Total Cost of "Play" Option			\$135.1	\$67.5 to \$96.2	\$38.9 to \$67.5

Note: Employer and worker shares range from the 50/50 split proposed in the mandate option to the average premium shares for employer-based PPO plans. See the Kaiser Family Foundation, Annual Report, 2008, Exhibit 6.5.

Source: Estimates by AES using data from the Senate Finance Committee Options Paper; the Office of Personal Management; the Kaiser Family Foundation; and the Census Bureau 2008 March ASEC Supplement.

Table 8: Annual Cost Of Proposed Pay or Play Mandate If Employers "Pay"

Annual Payroll Size	Number of Workers (1,000s)	Excise Tax Per Employee	Annual Cost (billions)
\$500,000 - \$999,999	2,489	\$100	\$3.0
\$1 Mill. - \$1.499 Mill.	1,479	\$250	\$4.4
\$1.5 Mill. or more	10,641	\$500	\$63.8
Total Cost of "Pay" Option			\$71.2

Estimates by AES using data from the Senate Finance Committee Options Paper; and Unpublished U.S. Census Bureau County Business Pattern data.