

MAX BAUCUS, MONTANA, CHAIRMAN

JOHN D. ROCKEFELLER IV, WEST VIRGINIA  
KENT CONRAD, NORTH DAKOTA  
JEFF BINGAMAN, NEW MEXICO  
JOHN F. KERRY, MASSACHUSETTS  
RON WYDEN, OREGON  
CHARLES E. SCHUMER, NEW YORK  
DEBBIE STABENOW, MICHIGAN  
MARIA CANTWELL, WASHINGTON  
BILL NELSON, FLORIDA  
ROBERT MENENDEZ, NEW JERSEY  
THOMAS R. CARPER, DELAWARE  
BENJAMIN L. CARDIN, MARYLAND

ORRIN G. HATCH, UTAH  
CHUCK GRASSLEY, IOWA  
OLYMPIA J. SNOWE, MAINE  
JON KYL, ARIZONA  
MIKE CRAPO, IDAHO  
PAT ROBERTS, KANSAS  
MICHAEL B. ENZI, WYOMING  
JOHN CORNYN, TEXAS  
TOM COBURN, OKLAHOMA  
JOHN THUNE, SOUTH DAKOTA  
RICHARD GURR, NORTH CAROLINA

## United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

RUSSELL SULLIVAN, STAFF DIRECTOR  
CHRIS CAMPBELL, REPUBLICAN STAFF DIRECTOR

November 7, 2011

Dr. Douglas Elmendorf  
Director  
Congressional Budget Office  
Ford House Office Building, 4th Floor  
Second and D Streets, SW  
Washington, DC 20515-6925

Dear Dr. Elmendorf:

We continue to value your leadership and expertise at the Congressional Budget Office (CBO). We know that the professionals at CBO develop estimates based on the best available data and modeling capability when scoring legislative proposals. We also understand that CBO has occasionally updated its estimates based on new, additional information, such as CBO did with medical liability reform estimates or when estimating alternative long-term budget scenarios. Similarly, we are writing to request your expertise in assessing the fiscal impact of the Patient Protection and Affordable Care Act (PPACA), under varying assumptions.

CBO's March 20, 2010 analysis of the PPACA, as amended by the Health Care and Education Reconciliation Act, estimated that, on net, 3 million American workers will lose their employer coverage over the next ten years. CBO has also estimated that \$777 billion through 2021 will be spent on subsidies for health insurance policies purchased through the new Insurance Exchanges created by PPACA. While we realize CBO made these estimates based on the best information available at the time, we believe that feedback from the employer community subsequent to the passage of the law warrants additional analysis from CBO.

As you know, employers have historically sought to offer competitive health benefit packages to attract the best and brightest workforce. However, under PPACA's new structure of mandates and subsidies, many employers have noted the significant economic incentive to drop employee health coverage. For example, if an employee's health benefits cost an employer \$8,000 in 2014 and the employer was penalized \$2,000 for not providing those benefits, an employer could save \$6,000 by not offering health benefits. Caterpillar recently estimated it could save 70 percent of employee health care costs by dropping coverage and paying penalties. Similarly, AT&T estimated it could save \$1.8 billion by dropping coverage and paying the penalties. Anecdotally, we have heard from many employers considering dropping coverage, and quantitatively, surveys of large employers by McKinsey and surveys of small employers by the National Federation of Independent Businesses have found that a majority of employers are seriously considering dropping employee health benefits. Presumably, these employer savings could be redirected to other forms of employee compensation or other expenses, and the employees could receive the subsidies through the new insurance exchanges. As a result, the spending included in PPACA may be substantially greater than initially estimated.

We understand that the value of the employer tax exclusion and employer-provided health benefits may be of greater worth to some employees, especially higher wage employees who benefit most from the employer exclusion, than the value of receiving subsidies through the new insurance exchanges. However, receiving subsidies through the new exchanges may be more financially attractive for lower wage employees who benefit less from the employer exclusion. While we understand how employee benefit nondiscrimination rules could lead a substantial number of employers to continue offering health benefits to all of their employees, we are concerned that many employers may design ways to stratify their labor force to their economic advantage. For example, employers may decide to subcontract their lower wage work force, but keep their higher wage work force. This arrangement would relieve them of the health care costs of lower wage workers, who could be eligible for subsidies through the new exchanges, but allow them to continue offering health benefits to higher wage workers, who will benefit from the employer exclusion. If employers devise ways to stratify their labor force as we speculate, we are concerned that this would dramatically increase direct spending on the subsidies through the insurance exchanges.

CBO's March 2011 baseline indicates that there are currently 152 million Americans covered by employer-sponsored insurance, and CBO's estimate of PPACA estimates that 19 million Americans will receive subsidies through the new insurance exchanges. Because the federal budget deficit is currently at \$1.5 trillion and the national debt is now more than \$15 trillion, we believe Congress should have more information about the impact of PPACA on the federal budget through a sensitivity analysis. Therefore, we request that CBO conduct a sensitivity analysis of some assumptions underlying its modeling of firms' behavior. In particular, we request an analysis of how CBO's estimates of insurance coverage and federal costs would vary if the key factors that govern how employers decide whether to offer coverage to their employees were to differ significantly from those that underlie CBO's projections.

We thank you for your consideration of this request, and look forward to your analysis of these issues. If you have any questions, please contact Jay Khosla, Stephanie Carlton (██████████), or Hayden Rhudy (██████████) of my staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Orrin Hatch". The signature is written in a cursive, flowing style with a large initial "O".

Orrin G. Hatch  
Ranking Member  
U.S. Senate Committee on Finance