



# Executive Memorandum

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## CRAFTING A HEALTH CARE TAX CREDIT IN THE TRADE BILL

NINA OWCHARENKO

As House and Senate conferees meet on their differing trade bills, they will have to resolve differences in health care provisions as well as a number of trade-specific provisions. Both bills provide health care assistance to displaced workers using a refundable tax credit structure. However, although both bills incorporate similar financing structures, they differ in the implementation of the credits. In conference, Members should work to enable tax credit recipients to select a plan of choice, including individual policies, and to provide states with the flexibility to design affordable private purchasing options for this group as well as other uninsured populations.

**Tax Credits in the House and Senate Bills.** The trade bill passed by the Senate was a considerable improvement over the original proposal. Not only did its Trade Adjustment Assistance (TAA) program include a refundable tax credit for health care, but it also eliminated a previous provision that would have restricted assistance to COBRA coverage, whereby workers would have only two options for health care coverage—either take on payments for the (often expensive) coverage previously provided by their employers or be placed on Medicaid.

In an effort to harmonize the original House-passed trade bill (H.R. 3005), which included no health care provisions, with the comprehensive trade package passed by the Senate (H.R. 3009), House Ways and Means Committee Chairman William Thomas (R-CA) proposed a refundable tax

credit for TAA-eligible workers and Pension Benefits Guarantee Corporation (PBGC) retirees (retirees whose former employers cease to provide promised retirement benefits). These credits could be applied to the coverage of a recipient's choice—an approach modeled after the twice-passed health care tax credit provisions in the House economic stimulus bill.

**Elements of Effective Implementation.** While the Senate and House bills incorporate similar financing structures for the tax credits, the way the credits are implemented can make a critical difference in their effectiveness. The legislation that emerges from conference should include the following provisions:

- **Individual Choice.** Tax credit recipients should be allowed to apply the credit toward the plan of their choice. They should have access to a broad range of coverage options, including policies purchased in the individual market, innovative private options offered through the state, and coverage previously provided by a former employer. Tax credit recipi-

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ents, not Congress, should decide which policy best suits their unique financial and medical needs.

The Senate bill would deny tax credit recipients access to the full range of available coverage options. Specifically, it would prohibit them from using the credit toward coverage purchased in the individual market even though, in many instances, individual policies may be the most affordable option. This restriction must be removed.

The House bill does not restrict the use of the credit. It allows tax credit recipients to apply their credit to any qualified health care plan, including the option of policies bought in the individual market. Allowing individuals to choose their own health care plans is an important provision and must be maintained in the final package.

- **State Flexibility.** Congress should encourage states to develop a variety of affordable coverage options for tax credit recipients and other uninsured populations. Rather than dictating the types of options states could establish, Congress should give states the flexibility to design innovative approaches that are consistent with the basic goal of providing affordable private coverage options.

The Senate bill provides funding for states to establish a number of group purchasing options but limits the use of those funds to that list of options. This provision should be expanded to allow states to use the funds to design their own innovative approaches that meet the outlined goals.

While the House bill does not establish a specific list of options for states, it does highlight the benefits of high-risk pools and provides states with grants to establish or maintain these pools for the "hard to insure." Consideration

should be given to expanding the states' use of these grants to support alternative purchasing options, in addition to high-risk pools, that provide tax credit recipients and others with affordable private coverage options.

The House and Senate will also have to address a variety of other construction issues, including the size, scope, and duration of the credits, as well as basic market access protections. The Senate bill imposes numerous market requirements that could increase the overall cost of the policies, making them less affordable and less accessible to those who need coverage. The House bill takes a more conservative approach. It applies current "guarantee issue" protections to those recipients who have maintained coverage for at least 12 months. This is a more acceptable approach that would ensure individual access to coverage but would not undermine its market price.

**Conclusion.** With House and Senate adoption of tax credits as part of the TAA program, Members have a unique opportunity to implement effective health care policy. However, for this trade legislation to be successful, the House and Senate conferees will have to resolve a variety of policy issues.

As Sara Fitzgerald and Aaron Schavey point out in their *Conferees' Guide to Ensuring Real Trade Promotion Authority* (Heritage Foundation *Background* No. 1570, July 16, 2002), certain trade provisions must be removed to ensure that the President can negotiate trade agreements without complication. In addition, conferees must allow tax credit recipients to choose the health care plan that best meets their needs, give them full access to all coverage options, including individual policies, and encourage greater state innovation in designing affordable private purchasing options.

—Nina Owcharenko is Health Care Policy Analyst at The Heritage Foundation.