Backgrounder

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After Katrina: How Congress Should Ensure Health Insurance Continuity

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Congress must prepare now for the next disaster. The recent hurricanes that devastated the Gulf Coast states focused national attention on some major inadequacies in America's disaster response system. One set of inadequacies that policymakers need to address concerns the ability of medical providers and the health insurance system to cope effectively with the disruptions caused by major disasters, whether natural or man-made.

In the case of health insurance, H.R. 4086, a bill to amend the Internal Revenue Code, was recently introduced by Representative Bobby Jindal (R–LA) and a bipartisan group of Representatives from the Gulf States. The bill offers a simple and effective mechanism for minimizing disruptions in private health insurance coverage following a major disaster. The bill would provide a temporary, refundable, and advanceable health insurance tax credit to help those who are affected by a major disaster to continue paying the premiums for their private health insurance coverage, thereby lessening their need to rely on public assistance through Medicaid or join the ranks of the uninsured.[1]

H.R. 4086 is a limited bill, so it does not address the adequacy of disaster preparedness in the health care delivery system or make changes to ensure continuity of coverage for individuals enrolled in public assistance programs such as Medicaid. However, it does offer an important solution for the 65 percent to 70 percent of the population covered by private, employer-sponsored, and non-group health insur-

Talking Points

- During the recovery period after a disaster, less immediate but still important needs such as health insurance coverage tend to take second priority.
- The problem is not that private health insurance coverage might disappear following a major disaster, but that the ability of many individuals and businesses to pay for that coverage can temporarily disappear following a disaster.
- While the federal government can and should help, simply expanding Medicaid is a poor solution. A health insurance tax credit, such as the one proposed in H.R. 4086, is a quicker, cheaper, and less disruptive way to deliver that assistance, both in the short term and in the long term.
- A temporary, refundable, and advanceable health insurance tax credit would be an important part of the solution for the 65 percent to 70 percent of the population covered by private, employer-sponsored, and non-group health insurance.

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ance. As such, it is a significant piece of the policy puzzle for ensuring that America is better prepared for the next major disaster.

The Health Care System After a Disaster

A major disaster, whether resulting from an enemy attack or caused by natural forces such as hurricanes or earthquakes, has follow-on effects that significantly affect the health care system. It initially affects the delivery system by damaging or destroying hospitals, clinics, pharmacies, and physician offices, leaving those that remain to cope with treating the injured and the displaced. The second effect is on the health insurance coverage of those who are displaced by the disaster.

Most working Americans and their families depend on employer-sponsored health insurance coverage, and most of the self-employed directly purchase individual or family health insurance policies. A major disaster can significantly disrupt their coverage.

The most significant disruption is the loss of income needed to pay health insurance premiums, among other things. The disaster can damage or destroy businesses, particularly small ones, leaving them with reduced revenues. Workers can lose their jobs if their employers are bankrupted by the disaster or forced to reduce employment. In the case of businesses destroyed by a disaster, the owners and workers can lose their source of health insurance coverage along with their income, as well as many of life's other essentials.

Disasters also destroy infrastructure, disrupt services such as mail delivery, and disperse populations, which can make simple, everyday activities such as paying an insurance premium difficult for months after a disaster.

Finally, the affected businesses and individuals often need months or even years to regroup and either rebuild or move on. During the recovery period after a disaster, when people suddenly face the combination of limited funds and pressing immediate needs such as food and shelter, less immediate but still important needs such as health insurance coverage tend to take second priority.

Many assume that the only way to address such a situation is for the federal government to step in and take over. Following Hurricane Katrina, such an assumption led Senators Charles Grassley (R–IA) and Max Baucus (D–MT) to draft legislation (S. 1716) extending Medicaid coverage to anyone who was living or working in the disaster area when the hurricane hit.[2]

While the federal government can and should help, simply expanding Medicaid is a poor solution. A health insurance tax credit, such as the one proposed in H.R. 4086, is a quicker, cheaper, and less disruptive way to deliver that assistance, both in the short term and in the long term.

A Better Solution

The sponsors of H.R. 4086 recognize that, while disasters disrupt lives and jobs and reduce the ability of individuals and businesses to pay for health insurance coverage, a major disaster in one part of the country is unlikely to cause any significant disruption in the private health insurance system. For example, when a disaster affects the local operations of a large national or multinational employer, that employer's health plan does not disappear, even if some employees do lose their jobs. Similarly, small to medium-sized businesses and the self-employed typically buy health insurance policies from large state, regional, or national health insurers.

Because of their diverse operations, a disaster would rarely damage an insurer sufficiently to cause insolvency or even significantly impair its ability to pay claims. Even in such an unlikely eventuality, state insurance regulators in every state already have sufficient authority to step in and protect policyholders.

1. The cosponsors of H.R. 4086 are Representatives Gene Taylor (D–MS), Jeff Miller (R–FL), Sheila Jackson Lee (D–TX), and Ron Paul (R–TX).

2. See Nina Owcharenko, "Katrina's Victims Deserve Better Than Medicaid," Heritage Foundation *WebMemo* No. 862, September 26, 2005, at *www.heritage.org/Research/HealthCare/wm862.cfm*.

Thus, the problem is not that private health insurance coverage might disappear following a major disaster, but that the ability of many individuals and businesses to pay for that coverage can temporarily disappear following a disaster.

The Jindal bill would adjust for that displacement by building on an existing tax code provision to help displaced workers retain health insurance coverage. In 2002, Congress created a refundable, advanceable health insurance tax credit for workers who lost their jobs as a result of the U.S. lowering its trade barriers. That tax credit was included as part of the Trade Adjustment Assistance (TAA) provision of the Trade Act of 2002 and became known as the TAA tax credit.[3]

H.R. 4086 would amend the TAA tax credit provisions in three respects:

1. **Eligibility.** The bill would create a new category of temporary, health insurance tax credit eligibility for disaster relief recipients. To qualify, a taxpayer must have had a primary residence, business, or primary worksite located in a county or area that the President has declared a disaster area eligible for individual assistance from the federal government.[4] Any dependants of eligible individuals would also qualify.
2. **Amount and Duration.** The tax credit would reimburse 65 percent of the cost of qualified health insurance paid for by the taxpayer for up to 12 months following the disaster. Only the portion of the premium paid by the taxpayer would qualify for the credit. Premium contributions paid by employers or government programs would not count toward the tax credit.
3. **Qualified Coverage.** For disaster relief recipients, qualified coverage would consist of any employer-sponsored or individually purchased health insurance in force immediately before the disaster occurred. A taxpayer who involuntarily lost coverage as a result of the disaster or an event within 12 months of the disaster (e.g., a layoff, employer bankruptcy, or insurer insolvency) would qualify for the credit. The credit would also apply to any continuation, successor, or replacement coverage provided under federal or state law. However, only major medical coverage would qualify. Limited benefit plans, such as Medigap coverage or a dental plan, would not qualify.

Overall, the Jindal bill would put in place a mechanism for helping individuals who are affected by a major disaster to continue paying their private health insurance premiums for one year after that disaster. While the bill would apply retroactively to the disaster areas caused by Hurricanes Katrina, Rita, and Wilma, it is not limited to these events, but rather would become a permanent piece of the federal government's disaster response.

The Advantages of H.R. 4086

The Jindal bill's approach has a number of advantages over other proposed solutions to the disruption of health insurance coverage that is caused by major disasters. Specifically, H.R. 4086 would:

- **Offer a permanent improvement in America's disaster response plan.** It would operate automatically, obviating the need for Congress to enact special, emergency, one-off provisions every time a major disaster strikes some part of the country.
- **Coordinate the health insurance tax credit with the rest of the federal government's efforts.** In particular, it would complement the standard disaster response mechanisms as codified in the Stafford Act, which regularized the previous congressional practice of passing emergency legislation every time a disaster occurred.
- **Limit the tax credit to those who are hardest hit by a disaster.** Only individuals living or working in a declared major disaster area would qualify for the health insurance tax credit.

3. Trade Act of 2002, Public Law 107–210, Section 201, 26 USC 35(c).

4. Eligibility for the tax credit would be conditioned on a presidential declaration of a disaster area in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93–288, as amended.

- **Offer time-limited, transitional assistance without permanently expanding federal responsibilities or funding.** The one-year limit is designed to allow disaster victims a reasonable amount of time to reconstruct their previous lives and make new living and employment arrangements.
- **Ensure that those who had private health insurance coverage before a disaster keep it following the disaster.** Thus, it prevents these individuals from suddenly adding to the burden of uncompensated care on medical providers, becoming dependent on public assistance, or joining the ranks of the uninsured. This is important because it would reduce the additional stresses on health care delivery systems and state and local budgets at a time when communities are trying to cope with the aftermath of a major disaster.
- **Provide a refundable tax credit like the current TAA credit.** Thus, an eligible taxpayer would receive the full amount of the credit due, even if that amount exceeds his or her income tax liability. This feature is important to individuals and families who are displaced by a disaster and experience a reduction in income due to disaster-related job loss or temporary interruptions in employment.
- **Provide an advanceable tax credit, again like the current TAA credit.** This means that taxpayers would not need to wait until the end of the tax year to claim the credit. Rather, the credit could be paid out immediately (directly to the insurer or employer plan) on a monthly basis to offset insurance premiums as they come due. At the end of the year, the credit payments would be reconciled on the taxpayer's income tax form, at which point any final adjustments (up or down) would be made in the context of the taxpayer's overall tax situation for the year.
- **Build on existing U.S. Treasury mechanisms that administer the refundability and advanceability features of the TAA tax credit.** The Treasury already has a working system for paying the TAA tax credit directly to insurers and employer plans. By building on this system, H.R. 4086 not only safeguards the new credit against potential fraud, but also ensures that payments go directly to insurance plans. This feature is particularly important for disaster relief recipients because disasters tend to disrupt normal communication systems, such as mail delivery, while forcing recipients to relocate. Direct transfers of tax credit premium subsidies to insurers and employer plans would circumvent these disruptions.

In short, by building on the TAA tax credit system, the Jindal bill offers an optimal solution for ensuring that temporary assistance to disaster victims is well targeted and delivered in an efficient and timely manner, at least in ensuring that disaster victims can retain their private health insurance coverage.

Comparison with TAA Tax Credit

While H.R. 4086 would build on the existing TAA tax credit structure, the bill's mechanisms for providing the same tax credits to disaster relief recipients differ in some important respects from those for TAA credit recipients. Consequently, the experience with the TAA tax credit is not quite analogous to what could be expected if the tax credits were extended to disaster relief recipients as proposed in H.R. 4086.

A recent study of the TAA tax credit over the past two years found that enrollment was "less than originally hoped" but "more than frequently believed."[5] The study found several factors that produced lower-than-expected enrollment. First, a significant share of enrollees had alternative coverage sources, such as a spouse's employer-sponsored insurance plan or Medicare. Second, the process for establishing eligibility as a qualified "displaced worker" under TAA is complex and time consuming. Third, the enrollment process established by

5. Stan Dorn, J.D., Janet Varon, J.D., and Fouad Pervez, M.P.H., "Limited Take-Up of Health Coverage Tax Credits: A Challenge to Future Tax Credit Design," Commonwealth Fund *Issue Brief*, Publication No. 869, October 2005, at *www.cmwf.org/usr_doc/Dorn_limited_take-up_tax_credits_869_ib.pdf* (November 28, 2005).

the IRS is more reactive (waiting for eligible individuals to file applications) than proactive (identifying and enrolling eligible individuals).

However, these issues will likely be much less significant in implementing tax credits for disaster relief recipients. Unlike TAA recipients, disaster relief recipients are less likely to have alternative sources of coverage. For example, enrolling in a spouse's plan will likely be at least as difficult as maintaining current coverage in a disaster area.

Second, the enrollment process for disaster relief recipients could be made much simpler than the TAA enrollment process. Federal Emergency Management Agency (FEMA) intake workers would need only a few key pieces of information from the applicants to verify eligibility and enroll them. An intake worker with access to relevant databases, such as the past year's income tax records, and emergency authority to override privacy regulations could establish eligibility and conduct enrollment on-site with only the individual's name, his or her Social Security number, and the name of the insurance company or the employer's health care plan.

Finally, unlike TAA recipients, disaster relief recipients would be geographically concentrated, making enrollment at FEMA relief stations a much more proactive process than the IRS's current enrollment process for TAA recipients scattered throughout the country.

One possible objection to the tax credit approach to helping disaster victims is that some affected employers might reduce their contributions to employee health insurance in the wake of a disaster. Because the tax credit would reimburse only premium payments made by the taxpayer and not payments made by the employer, some employers, as a practical matter, might choose to reduce or suspend their contributions to employee health insurance during the period that their employees could claim the credit. Such a move would still leave covered employees with little or no increase in their net out-of-pocket costs, while the employer would benefit from an indirect, one-year marginal payroll subsidy.

At most, this would have only a marginal effect because workers already benefit from the current tax exclusion for employer-paid health insurance contributions. Thus, the tax credit would represent only a slight increase in the federal subsidy for their health insurance. Furthermore, employers who were still in business after a disaster might find that the marginal payroll subsidy would not be worth the effort of temporarily changing payment arrangements. Given the size of total federal expenditures on various forms of disaster relief for both individuals and businesses, such a small, marginal, and temporary wage subsidy could be justified as a reasonable part of an overall federal effort to speed disaster recovery in an affected area.

Conclusion

H.R. 4086 is a limited bill and thus only one of the many reforms that Congress needs to make to improve America's disaster response system. However, a temporary, refundable, and advanceable health insurance tax credit would be an important part of the solution for the 65 percent to 70 percent of the population covered by private, employer-sponsored, and non-group health insurance. By helping to ensure that the vast majority of those who had private health insurance coverage before a disaster struck would be able to keep it following the disaster, the tax credit would prevent those individuals from suddenly adding to the burden of uncompensated care on medical providers, becoming dependent on public assistance, or joining the ranks of the uninsured.

As Congress debates reforming and improving America's disaster response system, it should adopt the policies embodied in H.R. 4086, either separately or as part of a larger disaster response reform package.

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