



New GOP Congress Likely to Consider Insurer Bailouts

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The Republican-led 114th Congress will have to decide whether to provide taxpayer dollars to health insurance companies facing losses for selling policies on the exchanges established by the Affordable Care Act. The subsidies are built into the law but require an appropriation from Congress, according to the Congressional Research Service.

If Congress does not approve funding for the subsidies, insurers are likely to have to raise premiums to avoid losses, or stop offering policies on the exchanges altogether.

“Not only Republicans, but insurers themselves, should give up on risk corridor payments,” said John R. Graham, a senior fellow in health care studies at the National Center for Policy Analysis. “Giving them up will show voters that Republicans are serious about repealing and replacing Obamacare, while insurers will show they are also ready to move on to be a good partner in real reform.”

Subsidy Funding Left Out

The Affordable Care Act, known as Obamacare, established three separate programs designed to ensure participating health insurers have essentially a guaranteed profit on the policies they write on the exchanges: reinsurance, risk adjustment, and risk corridors.

Each is structured differently, but all are designed to limit or prevent losses by the insurance companies on policies sold through the exchanges. According to a document by the Center for Medicare and Medicaid Services, the goal of these programs is to “provide certainty and protect against adverse selection in the market while stabilizing premiums in the individual and small group markets as market reforms and Exchange begin in 2014.”

The reinsurance and risk corridor programs are set to expire after 2016, whereas risk adjustment is written into law as a permanent feature.

Payments Not Authorized

Under the risk corridor program, any insurer who pays out more than 108 percent of its original projected claims is to be reimbursed approximately 75 percent of those additional costs. In crafting this provision, however, the drafters failed to create an authorization for funding this program, and the Congressional Research Service has determined without additional legislation the federal government is not authorized to pay claims under the risk corridor program.

In testimony in the U.S. House of Representatives earlier this year, Edmund F. Haislmaier, a senior research fellow at the Heritage Foundation, explained the “risk corridor” program has no “appropriate and sufficient rationale” and could create additional taxpayer liabilities of an unknown amount.

James Capretta of the Cato Institute said, “Moving to strike or limit the risk corridor payments would be an important step” in protecting taxpayers.

Republicans Can Stop Subsidies

Despite the lack of language authorizing funds to be paid to insurance companies through the risk corridor program, the Obama administration has signaled it will make the payments anyway, claiming it has enough flexibility under the law to authorize payments. This has sparked a protest from congressional Republicans.

In an October 8 letter to House Speaker John Boehner, a dozen Republican Senators asked him to use the end-of-year budget bill to confirm and clarify only Congress can authorize the expenditure of funds for the risk corridor program. At press time, the House and Senate had both passed a year-end spending bill that included this clarification but the President had yet to sign the legislation.

Noting the Obama administration has redefined the term “user fee” in order to justify making the payments, the senators urged Boehner to “protect Congress’ power of the purse and prohibit the Obama administration from dispersing unlawful risk corridor payments providing for an Obama taxpayer bailout.”

The letter’s signers include Senators John Barrasso, Tom Coburn, Mike Enzi, John McCain, Rand Paul, and Marco Rubio.