

113TH CONGRESS  
2D SESSION

# H. R. 4805

To delay the provision of the Affordable Care Act premium and cost-sharing subsidies until the eligibility verification process for such subsidies is completed, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2014

Mrs. BLACK (for herself, Mr. GRIFFIN of Arkansas, Mr. HARRIS, Mr. TIBERI, Mr. FINCHER, Mr. SAM JOHNSON of Texas, Mr. DUNCAN of Tennessee, Mr. KELLY of Pennsylvania, and Ms. JENKINS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To delay the provision of the Affordable Care Act premium and cost-sharing subsidies until the eligibility verification process for such subsidies is completed, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No Subsidies Without  
5 Verification Act of 2014”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) On July 5, 2013, the Department of Health  
4 and Human Services released more than 600 pages  
5 of a final rule to implement the provisions of the Pa-  
6 tient Protection and Affordable Care Act and the  
7 health care provisions of the Health Care and Edu-  
8 cation Reconciliation Act of 2010 (commonly re-  
9 ferred to as “Obamacare” or the “ACA”).

10 (2) Such final rule included an announcement  
11 that the Federal Government would no longer verify  
12 that each applicant for premium tax credits or cost-  
13 sharing reductions for coverage offered through an  
14 Exchange established under the Patient Protection  
15 and Affordable Care Act are actually qualified for  
16 such credits or reductions. Instead, the Administra-  
17 tion would rely on self-attestation and sample audits  
18 of a sample population to “protect” the integrity of  
19 this new \$1 trillion entitlement program.

20 (3) The Department of Health and Human  
21 Services later announced a change in such policy  
22 and stated it would extend the sample population to  
23 100 percent. This change, though announced, was  
24 never made to the final rule, meaning there was no  
25 guarantee to the American people that applicants  
26 would be verified.

1           (4) It is estimated that not verifying eligibility  
2 for such credits and reductions could likely equate to  
3 approximately \$250 billion in fraudulent payments  
4 through payments of such Obamacare premium tax  
5 credits and cost-sharing reductions.

6           (5) The final rule provides that the Department  
7 of Health and Human Services will offer to perform  
8 this verification procedure for States that are estab-  
9 lishing a State-based Exchange, but will be unable  
10 to do so until 2015. As a result, such States will not  
11 be required to randomly verify employer-sponsored  
12 coverage until 2015.

13           (6) In order to protect taxpayers after the De-  
14 partment of Health and Human Services failed to  
15 implement a new rule that it would ensure Congress  
16 and taxpayers that verification of eligibility would be  
17 performed, the House of Representatives advanced  
18 legislation, H.R. 2775, the No Subsidies Without  
19 Verification Act. This legislation would have pro-  
20 vided the force of law to ensure that verification  
21 would occur prior to the issuance of any Obamacare  
22 premium tax credit or cost-sharing reduction.

23           (7) On September 12, 2013, this legislation was  
24 passed in the House of Representatives with bipar-  
25 tisan support by a 235 to 191 vote margin.

1           (8) On September 10, 2013, the Obama Admin-  
2           istration issued a Statement of Administration Pol-  
3           icy to H.R. 2775 that stated “the Administration  
4           strongly opposes House passage of H.R. 2775 be-  
5           cause the goal of the bill is already being accom-  
6           plished while the text of the bill would create delays  
7           that could cost millions of hard-working middle-class  
8           families the security of affordable health coverage  
9           and care they deserve”.

10           (9) The Statement of Administration Policy  
11           also stated that “H.R. 2775 is unnecessary because  
12           the Secretary of Health and Human Services has al-  
13           ready put in place an effective and efficient system  
14           for verification of eligibility for premium tax credits  
15           and cost sharing reductions.”.

16           (10) On October 16, 2013, the Senate removed  
17           the verification mechanism of H.R. 2775 and re-  
18           placed it with language that required a report to  
19           Congress by the Secretary of Health and Human  
20           Services no later than January 1, 2014.

21           (11) On January 1, 2014, the Department of  
22           Health and Human Services submitted a mandated  
23           report to Congress entitled, “Verification of House-  
24           hold Income and Other Qualifications for the Provi-

1 sion of Affordable Care Act Premium Tax Credits  
2 and Cost-Sharing Reductions”.

3 (12) This report to Congress states, “In accord-  
4 ance with statute and applicable implementing regu-  
5 lations, when a consumer submits an application for  
6 insurance affordability programs (which include  
7 APTCs, CSRs, Medicaid, the Children’s Health In-  
8 surance Program (CHIP), and the Basic Health  
9 Program (BHP)), the Exchange verifies information  
10 provided by the consumer on the application as a  
11 component of making an eligibility determination.  
12 The processes for verifying information in order to  
13 determine eligibility for enrollment in a qualified  
14 health plan (QHP) through the Exchange and for  
15 APTC under section 36B of the Internal Revenue  
16 Code (the Code) and CSRs under section 1402 of  
17 the ACA are specified in the ACA and its imple-  
18 menting regulations. Pursuant to both statute and  
19 applicable regulations, the Exchanges have imple-  
20 mented numerous processes to carry out the  
21 verification of information provided by applicants.”.

22 (13) Beginning in 2014, Federal subsidies have  
23 been made available to help individuals purchase  
24 health insurance through an Exchange through pre-  
25 mium tax credits and cost-sharing reductions. On

1 April 2014, the Department of Health and Human  
2 Services delayed implementation of income verifica-  
3 tion systems in order to increase sign-ups for health  
4 care plans through the healthcare.gov website.

5 (14) Various reports indicate that the internal  
6 portions of the healthcare.gov website are yet to be  
7 finalized, thus leaving the Department of Health and  
8 Human Services unable to perform the verification it  
9 stated it was performing. The Obama Administra-  
10 tion is operating a new Federal entitlement program  
11 that fails to prevent fraudulent subsidy claims before  
12 administered. In doing so, the Department of Health  
13 and Human Services has created a new “pay and  
14 chase” program that places taxpayers at financial  
15 risk of fraudulent claims.

16 **SEC. 3. DELAYING PROVISION OF ACA PREMIUM AND COST-**  
17 **SHARING SUBSIDIES UNTIL ELIGIBILITY**  
18 **VERIFICATION PROCESS FOR SUCH SUB-**  
19 **SIDIES IS COMPLETE.**

20 (a) IN GENERAL.—Notwithstanding any other provi-  
21 sion of law, in the case of an individual with respect to  
22 whom a premium tax credit under section 36B of the In-  
23 ternal Revenue Code of 1986 or reduced cost-sharing  
24 under section 1402 of the Patient Protection and Afford-  
25 able Care Act (42 U.S.C. 18071) is being claimed, no such

1 credit or reduction shall be allowed before the first date  
2 of the first coverage month beginning on or after the date  
3 on which the process to verify, in accordance with section  
4 1411 of the Patient Protection and Affordable Care Act  
5 (42 U.S.C. 18081), the household income and coverage re-  
6 quirements of such individual for purposes of determining  
7 eligibility for, and the accurate amount of, such credit or  
8 reduction, respectively, has been completed. For purposes  
9 of the previous sentence, the verification process described  
10 in such sentence with respect to an individual shall not  
11 be treated as complete unless a manual or electronic re-  
12 view has been completed of applicable information re-  
13 quired to be submitted by such individual under section  
14 1411(b) of such Act (42 U.S.C. 18081(b)) and any incon-  
15 sistency of such information with records of the Secretary  
16 of the Treasury, Secretary of Homeland Security, or the  
17 Commissioner of Social Security has been resolved.

18 (b) TREATMENT OF INDIVIDUAL MANDATE.—Not-  
19 withstanding any other provision of law, no penalty shall  
20 be imposed under section 5000A of the Internal Revenue  
21 Code of 1986 with respect to an individual for any  
22 month—

23 (1) with respect to which a premium tax credit  
24 under section 36B of the Internal Revenue Code of  
25 1986 is being claimed for such individual; and

1           (2) that begins before the date on which the  
2 verification process described in subsection (a) has  
3 been completed, in accordance with such subsection,  
4 with respect to such claim for such individual.

5 (c) APPLICATION PROVISIONS.—

6           (1) EFFECTIVE DATE.—Subject to paragraph  
7 (2), the provisions of this section shall apply to cov-  
8 erage months beginning on or after the date of the  
9 enactment of this Act.

10           (2) TREATMENT OF INDIVIDUALS CURRENTLY  
11 RECEIVING SUBSIDIES.—

12           (A) SUSPENSION OF CERTAIN SUB-  
13 SIDIES.—In the case of an individual with re-  
14 spect to whom a premium tax credit under sec-  
15 tion 36B of the Internal Revenue Code of 1986  
16 or reduced cost-sharing under section 1402 of  
17 the Patient Protection and Affordable Care Act  
18 (42 U.S.C. 18071) has been claimed before the  
19 date of the enactment of this Act and for whom  
20 such a credit or reduction has been allowed be-  
21 fore such date, such allowance shall be sus-  
22 pended until the coverage month described in  
23 subsection (a) with respect to such claim for  
24 such individual.

25           (B) SPECIAL ENROLLMENT PERIOD.—



1 (i) IN GENERAL.—The Secretary of  
2 Health and Human Services shall take  
3 such steps as are necessary to establish a  
4 special enrollment period of 45 days, be-  
5 ginning on the date of completion of the  
6 verification process described in subsection  
7 (a), with respect to an individual described  
8 in clause (ii), for such individual to enroll  
9 in qualified health plans offered through  
10 Exchanges established under title I of the  
11 Patient Protection and Affordable Care  
12 Act.

13 (ii) INDIVIDUAL DESCRIBED.—For  
14 purposes of clause (i), an individual de-  
15 scribed in this clause is an individual—

16 (I) who is enrolled in a qualified  
17 health plan described in clause (i) be-  
18 fore the date of the enactment of this  
19 Act;

20 (II) to whom the suspension  
21 under subparagraph (A) applies;

22 (III) who terminated enrollment  
23 in the qualified health plan during  
24 such period of suspension; and

1 (IV) who, after the completion of  
2 the verification process described in  
3 subsection (a) with respect to such in-  
4 dividual, seeks to enroll in such a  
5 qualified health plan.

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