

114TH CONGRESS
1ST SESSION

H. R. 2712

To streamline the employer reporting process and strengthen the eligibility verification process for the health care premium tax credit and cost-sharing subsidy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2015

Mrs. BLACK (for herself and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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

A BILL

To streamline the employer reporting process and strengthen the eligibility verification process for the health care premium tax credit and cost-sharing subsidy, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Commonsense Reporting and Verification Act of 2015”.

1 (b) TABLE OF CONTENTS.—The table of contents of
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Prospective reporting system.
- Sec. 4. Protection of dependent privacy.
- Sec. 5. Electronic statements.
- Sec. 6. GAO studies.
- Sec. 7. Eligibility verification process for ACA subsidies.

3 **SEC. 2. FINDINGS.**

4 Congress finds the following:

5 (1) The Department of the Treasury and the
6 Internal Revenue Service should work together with
7 other relevant departments and agencies to identify
8 and implement methods to minimize compliance bur-
9 dens on businesses, insurance carriers, and individ-
10 uals under provisions of the Patient Protection and
11 Affordable Care Act.

12 (2) Such collaboration should strike an appro-
13 priate balance between sufficient reporting to en-
14 force the law and protecting the privacy of individ-
15 uals.

16 **SEC. 3. PROSPECTIVE REPORTING SYSTEM.**

17 (a) IN GENERAL.—Not later than 180 days after the
18 enactment of this Act, the Secretary of the Treasury, in
19 consultation with the Secretary of Health and Human
20 Services, the Secretary of Labor, and the Administrator
21 of the Small Business Administration, shall implement a
22 voluntary prospective reporting system meeting the re-

1 requirements of subsection (b). Such system shall be estab-
2 lished not later than September 2, 2016, and shall be
3 available for use by employers with respect to plan years
4 beginning after December 31, 2015.

5 (b) REQUIREMENTS.—The system created under sub-
6 section (a) shall be maintained by the Secretary of the
7 Treasury and shall include—

8 (1) a process whereby employers may volun-
9 tarily report—

10 (A) the name and employer identification
11 number of the employer;

12 (B) a certification of—

13 (i) whether coverage meeting the defi-
14 nition of minimum essential coverage in
15 section 5000A(f) of the Internal Revenue
16 Code of 1986 is offered to the full-time
17 employees;

18 (ii) whether such coverage is offered
19 to dependents of such employees;

20 (iii) whether such coverage is offered
21 to spouses of such employees;

22 (iv) whether such coverage is offered
23 to part-time employees;

1 (v) whether such coverage meets the
2 minimum value requirement of section
3 36B(c)(2)(C)(ii) of such Code; and

4 (vi) whether such coverage satisfies
5 the requirements to qualify for one of the
6 affordability safe harbors promulgated by
7 the Secretary of the Treasury for purposes
8 of section 4980H of such Code;

9 (C) the months during the prospective re-
10 porting period that such coverage is available to
11 full time employees of the employer; and

12 (D) whether any waiting periods apply
13 with respect to such coverage;

14 to be reported not later than 60 days before the
15 start of the open enrollment period under section
16 1311(c)(6)(B) of the Patient Protection and Afford-
17 able Care Act with respect to each such calendar
18 year;

19 (2) a process to ensure that Exchanges, the
20 Federal Marketplace Data Services Hub, and the In-
21 ternal Revenue Service can securely and confiden-
22 tially access the information described in paragraph
23 (1) as necessary to carry out their respective mis-
24 sions, and to provide to the Secretary of Health and
25 Human Services additional information relating to

1 eligibility determinations for advance payment of the
2 premium tax credits under section 36B of such Code
3 and the cost-sharing subsidies under section 1402 of
4 the Patient Protection and Affordable Care Act
5 (Public Law 111–148);

6 (3) a process to allow the appropriate agency
7 described in subsection (a) to follow up with employ-
8 ers in order to obtain additional necessary informa-
9 tion relating to an employee’s eligibility for such ad-
10 vance payment or such cost-sharing subsidies, and to
11 allow an employee to receive notification of any
12 problem in verifying such eligibility; and

13 (4) a process to allow employers using the sys-
14 tem to provide timely updates to the Federal Mar-
15 ketplace Data Services Hub regarding any cancella-
16 tion of coverage or significant change in availability
17 of coverage for participating employees.

18 (c) EXEMPTION FROM REPORTING REQUIREMENT
19 UNDER INTERNAL REVENUE CODE OF 1986.—If,
20 through the system created under subsection (a), an em-
21 ployer provides prospective reporting for a calendar year
22 in which a plan year ends that meets the requirements
23 of subsection (b)(1)—

24 (1) such employer shall be treated as satisfying
25 the return requirements of subsections (a) and (b)

1 of section 6056 of the Internal Revenue Code of
2 1986 for the calendar year in which such plan year
3 ends; and

4 (2) such employer shall be treated as satisfying
5 the requirements of section 6056(c) of such Code for
6 the calendar year in which such plan year ends if the
7 employer furnishes the statement described in such
8 section to the Internal Revenue Service and to those
9 employees of the employer for whom the employer
10 has received a notice under section
11 1411(e)(4)(B)(iii) of the Patient Protection and Af-
12 fordable Care Act (42 U.S.C. 18081) from the Ex-
13 change (established under section 1311 or 1321 of
14 the Patient Protection and Affordable Care Act (42
15 U.S.C. 18031, 18041)) that the employee, or the
16 spouse or dependent of the employee, has enrolled in
17 a qualified health plan (as defined in section 1301
18 of such Act (42 U.S.C. 18021)) through the Ex-
19 change or been deemed eligible for an advance pay-
20 ment of premium tax credits under section 36B of
21 such Code or cost-sharing subsidies under section
22 1402 of the Patient Protection and Affordable Care
23 Act (42 U.S.C. 18071).

24 (d) **THIRD-PARTY FILING.**—Employers may use
25 third parties to complete the filing described in subsection

1 (b)(1). Use of such a third party to complete the filing
2 does not affect an employer's liability under sections 6055
3 or 6056 of the Internal Revenue Code of 1986.

4 (e) EMPLOYER NOTIFICATION OF EMPLOYEE EN-
5 ROLLMENTS.—Each Exchange established under title I of
6 the Patient Protection and Affordable Care Act shall pro-
7 vide notice to each employer at the time an employee (or
8 dependent of an employee) is enrolled under a qualified
9 health plan through the Exchange.

10 **SEC. 4. PROTECTION OF DEPENDENT PRIVACY.**

11 (a) IN GENERAL.—Section 6055(b) of the Internal
12 Revenue Code of 1986 is amended by adding at the end
13 the following new paragraph:

14 “(3) TINs NOT COLLECTED OR MAINTAINED.—
15 For purposes of subparagraph (B)(i), in the case of
16 an individual other than the primary insured, if, be-
17 fore January 1, 2014, the health insurance issuer or
18 the employer did not collect or maintain information
19 on the TINs of such individuals (other than for pur-
20 poses of this section), the individual's name and date
21 of birth may be substituted for the name and TIN.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to returns the due date for which
24 is after the date that is 60 days after the date of the enact-
25 ment of this Act.

1 **SEC. 5. ELECTRONIC STATEMENTS.**

2 (a) IN GENERAL.—Section 6056(c) of the Internal
3 Revenue Code of 1986 is amended by adding at the end
4 the following new paragraph:

5 “(3) ELECTRONIC DELIVERY.—An individual
6 shall be deemed to have consented to receive the
7 statement under this section in electronic form if
8 such individual has consented at any prior time, to
9 the person who is the employer of the individual dur-
10 ing the calendar year or the preceding plan year to
11 which the statement relates, to receive such state-
12 ment in electronic form. The preceding sentence
13 shall not apply if the individual refuses consent in
14 writing with respect to the statement under this sec-
15 tion.”.

16 (b) STATEMENTS RELATING TO HEALTH INSURANCE
17 COVERAGE.—Section 6055(c) of such Code, as amended
18 by this Act, is amended by adding at the end the following
19 new paragraph:

20 “(4) ELECTRONIC DELIVERY.—An individual
21 shall be deemed to have consented to receive the
22 statement under this subsection in electronic form if
23 such individual has consented at any prior time to
24 receive in electronic form any private health infor-
25 mation (such as electronic health records) furnished
26 to such individual by the person required to make

1 such statement, unless the individual refuses such
2 consent in writing.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to statements the due date for
5 which is after December 31, 2015.

6 **SEC. 6. GAO STUDIES.**

7 (a) STUDY OF FIRST YEARS OF EMPLOYER REPORT-
8 ING.—

9 (1) IN GENERAL.—The Comptroller General of
10 the United States shall conduct a study that evalu-
11 ates, with respect to the period beginning on Janu-
12 ary 1, 2014, and ending on December 31, 2016—

13 (A) the notification of employers by Ex-
14 changes established under title I of the Patient
15 Protection and Affordable Care Act (Public
16 Law 111–148) that a full-time employee of the
17 employer has been determined eligible for ad-
18 vance payment of premium tax credits under
19 section 36B of the Internal Revenue Code of
20 1986 or cost-sharing subsidies under section
21 1402 of such Act (42 U.S.C. 18071), including
22 information regarding—

23 (i) the data elements included in the
24 employer notification;

1 (ii) the process by which the notifica-
2 tion forms were developed and sent to em-
3 ployers, including whether the process pro-
4 vided for a formal notice and comment pe-
5 riod;

6 (iii) whether employers report that
7 such notifications provided sufficient and
8 relevant information for them to make ap-
9 propriate decisions about whether to utilize
10 the appeals process;

11 (iv) the total number of notifications
12 sent to employers and the timeline of when
13 such notifications were sent;

14 (v) differences in the notification proc-
15 ess between the marketplace facilitated by
16 the Federal Government and the State-
17 Based Marketplaces; and

18 (vi) challenges that have arisen in the
19 notification process, and recommendations
20 to address these challenges; and

21 (B) the extent to which the Secretary of
22 Health and Human Services has established a
23 separate appeals process for employers who re-
24 ceived such a notification to challenge the eligi-
25 bility determination, as required by section

1 1411(f)(2) of the Patient Protection and Af-
2 fordable Care Act (42 U.S.C. 18081(f)(2)).

3 (2) REPORT.—Not later than 1 year after the
4 date of the enactment of this Act, the Comptroller
5 General shall submit to the Committees on Finance
6 and Health, Education, Labor, and Pensions of the
7 Senate and the Committees on Ways and Means,
8 Energy and Commerce, and Education and the
9 Workforce of the House of Representatives a report
10 on the results of the study conducted under para-
11 graph (1).

12 (b) STUDY OF PROSPECTIVE REPORTING SYSTEM.—

13 (1) IN GENERAL.—The Comptroller General of
14 the United States shall conduct a study that evalu-
15 ates, with respect to the period beginning on Janu-
16 ary 1, 2017, and ending on December 31, 2017, the
17 functionality of the prospective reporting system es-
18 tablished under section 3, including the accuracy of
19 information collected, the number of employers elect-
20 ing to report under such system, and any challenges
21 that have arisen in implementing such system.

22 (2) REPORT.—Not later than July 1, 2018, the
23 Comptroller General shall submit to the Committees
24 on Finance and Health, Education, Labor, and Pen-
25 sions of the Senate and the Committees on Ways

1 and Means, Energy and Commerce, and Education
2 and the Workforce of the House of Representatives
3 a report on the results of the study conducted under
4 paragraph (1).

5 **SEC. 7. ELIGIBILITY VERIFICATION PROCESS FOR ACA SUB-**
6 **SIDIES.**

7 (a) IN GENERAL.—Except as specified in subsection
8 (b), a marketplace (as defined in subsection (d)) may
9 automatically reenroll an individual into a qualified health
10 plan (as defined for purposes of title I of the Patient Pro-
11 tection and Affordable Care Act) so long as the market-
12 place—

13 (1) redetermines on an annual basis the eligi-
14 bility of the individual for any advanced premium
15 tax credit or a cost-sharing reduction pursuant to
16 section 1412 of the Patient Protection and Afford-
17 able Care Act (42 U.S.C. 18082); and

18 (2) takes into account, in making such redeter-
19 minations, annual changes in premiums and in the
20 Federal poverty level as well as the most recent in-
21 come data available with respect to the individual in-
22 volved.

23 (b) REENROLLMENT LIMITATIONS.—If a market-
24 place does not follow the processes specified under the sec-
25 tion with respect to an individual, then the marketplace

1 may not automatically reenroll the individual into a quali-
2 fied health plan with an advanced premium tax credit or
3 a cost-sharing reduction until the individual provides cur-
4 rent income information to the marketplace so that eligi-
5 bility for a credit or reduction can be redetermined.

6 (c) COMPREHENSIVE GUIDANCE BASED ON CUR-
7 RENT GUIDANCE.—The provisions of this section are in-
8 tended to generally reflect and be consistent with the guid-
9 ance on annual eligibility redeterminations and reenroll-
10 ments for marketplace coverage issued by the Centers for
11 Medicare and Medicaid Services on April 22, 2015. In car-
12 rying out this section, the Secretary shall apply rules
13 (whether through guidance or otherwise) regarding the an-
14 nual eligibility redeterminations and reenrollments for cov-
15 erage and for tax credits and cost-sharing reduction for
16 individuals through a marketplace that are consistent with
17 this section and are at least as comprehensive as the guid-
18 ance (issued on April 22, 2015) applied for coverage for
19 2016. Such guidance shall include provisions that ensure
20 that—

21 (1) enrollees eligible to be automatically re-
22 enrolled in a qualified health plan and to continue
23 provision of such a tax credit or cost-sharing reduc-
24 tion shall maintain on file with the marketplace (or
25 otherwise provide to the marketplace) an authoriza-

1 tion for disclosure of information verifying eligibility
2 for such a credit or cost-sharing reduction;

3 (2) the marketplace annually requests updated
4 income information to verify such eligibility; and

5 (3) enrollees are provided timely and appro-
6 priate notices of the rules regarding annual redeter-
7 minations and reenrollments.

8 (d) MARKETPLACE DEFINED.—In this section, the
9 term “marketplace” means State Based Exchanges and
10 the Federally Facilitated Exchange established under sec-
11 tions 1311 and 1321 of the Patient Protection and Afford-
12 able Care Act (42 U.S.C. 18031, 18041), respectively.

○