



RSC Policy Brief: Challenging Obamacare in the 112th Congress

December 23, 2011

Although the Supreme Court will consider the legal challenge to Obamacare in its current term, House Republicans in the 112th Congress have not left the exclusive determination of the law's constitutionality in the hands of the judicial branch. What follows below is a chronicle of the legislative and committee activity related to repeal of the massive government takeover of our health care industry:

I. Bills that have received a floor vote this Congress

Enacted Legislation

H.R. 4: Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011 ([P.L. 112-9](#), April 14, 2011). The bill repealed the Obamacare requirement that businesses file an IRS Form 1099 whenever they pay a vendor more than \$600 for goods in a single year. It passed the House by a vote of [314-112](#) on March 3, 2011.

H.R. 1473: Department of Defense and Full-Year Continuing Appropriations Act, 2011 ([P.L. 112-10](#) April 15, 2011). The bill included the following Obamacare-related provisions: (1) cancels \$2.2 billion of the \$6 billion appropriation for the Consumer Operated and Oriented Plan (CO-OP) program; (2) repeals the free choice voucher program that would have required certain employers to provide vouchers to qualified employees for purchasing coverage through a health insurance exchange; (3) prohibits transfers from the Public Health and Social Services Emergency Fund to pay for the new U.S. Public Health Sciences Track; and (4) removes the maintenance of effort requirement for use of the Community Health Center Fund (section 10503(b)(1)) and the Prevention and Public Health Fund (section 4002). It passed the House by a vote of [260-167](#) on April 14, 2011. Note: the House passed but the Senate rejected an enrollment correction to [H.R. 1473](#) ([H.Con.Res. 35](#)) that would have prohibited the use of funds to implement Obamacare.

H.R. 2576: To amend the Internal Revenue Code of 1986 to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain health care-related programs ([P.L. 112-56](#), November 21, 2011): The bill amends

section 36B(d)(2)(B) of the Internal Revenue Code to adjust the calculation of modified adjusted gross income (MAGI) in determining eligibility for federal health care-related programs created in Obamacare. Specifically, the bill requires all income derived from Social Security and Tier I Railroad benefits to be included in determining eligibility for enrollment in Medicaid, the Children’s Health Insurance Program (CHIP), and the amount of federal premium assistance tax credits for the purchase of qualified private health insurance offered through a state-based health exchange beginning on January 1, 2014. Under current law, eligibility for these healthcare-related programs will be considered in 2014 by assessing the amount of Social Security benefits that are considered taxable gross income—only a portion (not the entirety) of a taxpayer’s Social Security benefits. This bill was combined with H.R. 674 (the 3% Withholding Bill) and passed the House by a vote of [405-16](#) on October 27, 2011.

[H.R. 2055](#): Consolidated Appropriations Act of 2012 (House and Senate Passed Conference Report presented to the President on December 21, 2011). The bill cut \$400 million from the Consumer Operated and Oriented Plans (Co-Ops), not-for-profit insurance companies created under section 1322 of Obamacare, and appropriated \$6 billion for start-up grants and loans. It also cut \$10 million of the \$15 million appropriated for IPAB (Independent Payment Advisory Board) created in section 3403 of Obamacare. It also prohibits grants available under the Prevention and Public Health Fund (section 4002 of Obamacare) from being used for any publicity or propaganda purposes or for lobbying purposes in addition to requiring the Secretary of Health and Human Services to publicly disclose the grant recipients of these funds. It passed the House by a vote of [296-121](#) on December 16, 2011, and is expected to be signed into law today.

House-Passed Bills

[H.R. 2](#), Repealing the Job-Killing Health Care Law Act. The bill repeals Obamacare in its entirety and restores the provisions of law amended or repealed by Obamacare as if it had not been enacted. It passed the House by a vote of [245-189](#) on Jan. 19, 2011 and was offered as an amendment during Senate floor debate on an unrelated bill ([S. 223](#)), which was rejected on a procedural motion by a vote of 47-51.

[H.Res. 9](#), Instructing certain committees to report legislation replacing the job-killing health care law. The resolution instructs four health care committees of jurisdiction to report to the House “legislation proposing changes to existing law within each committee’s jurisdiction...” It passed the House on January 20, 2011 by a vote of [253-175](#).

[H.R. 1](#), Full-Year Continuing Appropriations Act, 2011. The bill included nine separate appropriations riders prohibiting the use of funds to implement specific PPACA (i.e. Obamacare) provisions or the entire law. The bill passed the House by a vote of [235-189](#) on Feb. 19, 2011 and was rejected in the Senate by a vote of 44-56 on Mar. 9, 2011.

[H.R. 1217](#), **A bill to repeal the Prevention and Public Health Fund (PPHF)**. The bill repeals the authority and appropriations for the PPHF and rescinds all unobligated funds. It passed the House by a vote of [236-183](#) on Apr. 13, 2011.

[H.Con.Res. 34](#), **Fiscal Year 2012 Budget Resolution**. The budget resolution proposed to repeal Obamacare and budgeted \$0 for its implementation over the ten-year budget window. It passed the House by a vote of [235-193](#) on April 15, 2011.

[H.R. 1213](#), **A bill to repeal PPACA funding for health insurance exchanges**. The bill repeals the authority and appropriations for state exchange planning and establishment grants and rescinds all unobligated funds. It passed the House by a vote of [238-183](#) on May 3, 2011.

[H.R. 1214](#), **A bill to repeal PPACA funding for school-based health center (SBHC) construction**. The bill repeals the authority and appropriations for SBHC construction grants and rescinds all unobligated funds. It passed the House by a vote of [235-191](#) on May 4, 2011.

[H.R. 1216](#), **A bill to convert funding for graduate medical education (GME) in qualified teaching health centers (THCs) to an authorization of appropriations**. The bill replaces the appropriation for GME payments to THCs with an authorization of appropriations for each of FY2012 through FY2015, and rescinds all unobligated funds. It also prohibits the GME funds from being used to provide abortions, except in cases of rape or incest or when the woman's life is in danger. It passed the House by a vote of [234-185](#) on May 25, 2011.

[H.R. 358](#), **The Protect Life Act**. The bill prohibits funding for abortion and abortion coverage under Obamacare. It also protects conscience rights for health care providers by specifying that Federal agencies and state or local governments funded by Obamacare may not discriminate against health care entities that refuse to be involved in abortion. It passed the House on October 13, 2011 by a vote of [251-172](#).

[H.R. 3630](#), **Middle Class Tax Relief and Job Creation Act of 2011**. The bill increased the amount of health care premium subsidies the Treasury Department can recapture from individuals who receive richer subsidies than should have originally been granted. Also, the bill reduces the funding for the Prevention and Public Health Fund by \$8 billion. It passed the House on December 13, 2011 by a vote of [234-193](#).

II. Committee Hearings

a. Budget

- i.*** [The Fiscal Consequences of the New Health Care Law](#): January 26, 2011; and

- ii. [Medicare's Future: An Examination of the Independent Payment Advisory Board](#): July 12, 2011.
- b. Education and Workforce
 - i. [The Impact of the Health Care Law on the Economy, Employers, and the Workforce](#): February 9, 2011 (Full Committee);
 - ii. [The Pressures of Rising Costs on Employer-Provided Health Care](#): March 10, 2011;
 - iii. [The Recent Health Care Law: Consequences for Indiana Families and Workers](#): June 7, 2011 field hearing; and
 - iv. [Regulations, Costs, and Uncertainty in Employer-Provided Health Care](#): October 13, 2011.
- a. Energy and Commerce
 - i. [The Protect Life Act](#): February 9, 2011;
 - ii. [Health Care Issues Involving the Center for Consumer Information and Insurance Oversight](#): February 16, 2011;
 - iii. [The Consequences of Obamacare: Impact on Medicaid and State Health Care Reform](#): March 1, 2011 (Full Committee);
 - iv. [FY 2012 HHS Budget and the Implementation of Public Laws 111-148 and 111-152](#): March 3, 2011;
 - v. [Setting Fiscal Priorities in Health Care Funding](#): March 9, 2011;
 - vi. [The Implementation and Sustainability of the New, Government-Administered Community Living Assistance Services and Supports \(CLASS\) Program](#): March 17, 2011;
 - vii. [PPACA in Pennsylvania: One Year of Broken Promises](#): March 23, 2011;
 - viii. [True Cost of PPACA: Effects on the Budget and Jobs](#): March 30, 2011;
 - ix. [The PPACA's High Risk Pool Regime: High Cost, Low Participation](#): April 1, 2011;
 - x. [Reported out of Committee H.R. 1215](#), a bill to convert funding for the personal responsibility education program (section 2953 of Obamacare) from direct appropriations to an authorization of appropriations: April 17, 2011;
 - xi. [White House Transparency, Visitor Logs, and Lobbyists](#): May 3, 2011;
 - xii. [PPACA's Effects on Maintaining Health Coverage and Jobs: A Review of the Health Care Law's Regulatory Burden](#): June 2nd & 15th, 2011;

- xiii. [IPAB: The Controversial Consequences for Medicare and Seniors](#): July 13, 2011;
 - xiv. [Cutting the Red Tape: Saving Jobs from PPACA's Harmful Regulations](#): September 15, 2011;
 - xv. [CLASS Cancelled: An Unsustainable Program and Its Consequences for the Nation's Deficit](#): October 26, 2011; and
 - xvi. [Do New Health Law Mandates Threaten Conscience Rights and Access to Care?](#): November 2, 2011;
- b. Oversight and Government Reform
- i. [Obamacare: Why the Need for Waivers?](#): March 15, 2011;
 - ii. [Waste, Abuse and Abuse Mismanagement in Government Health Care](#): April 5, 2011;
 - iii. [Impact of Obamacare on Job Creators and their Decision to Offer Health Insurance](#): July 28, 2011;
 - iv. [Obamacare's Employer Penalty and its Impact on Temporary Workers](#); October 6, 2011; and
 - v. [Examining Obamacare's Hidden Marriage Penalty and its Impact on the Deficit](#); October 27, 2011
- c. Judiciary
- i. [The Constitutionality of the Individual Mandate](#): February 16, 2011 (Full Committee).
- d. Ways and Means
- i. [The Health Care Law's Impact on Jobs, Employers, and the Economy](#): January 26, 2011 (Full Committee);
 - ii. [The Health Care Law's Impact on the Medicare Program and its Beneficiaries](#): February 10, 2011 (Full Committee);
 - iii. [AARP's Organizational Structure and Finances](#): April 1, 2011;
 - iv. [Health Care Industry Consolidation](#): September 9, 2011; and
 - v. [The Small Business Health Insurance Tax Credit](#): November 15, 2011.

RSC Staff Contact: Joe Murray, Joe.Murray@mail.house.gov (202)-226-0678

###