

114TH CONGRESS
1ST SESSION

H. R. 2711

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.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2015

Mrs. BLACK 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

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 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

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

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

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

(c) APPLICATION PROVISIONS.—

(1) EFFECTIVE DATE.—Subject to paragraph (2), the provisions of this section shall apply to coverage months beginning on or after the date of the enactment of this Act.

(2) TREATMENT OF INDIVIDUALS CURRENTLY RECEIVING SUBSIDIES.—

(A) SUSPENSION OF CERTAIN SUBSIDIES.—In the case of an individual with respect to whom a premium tax credit under section 36B of the Internal Revenue Code of 1986 or reduced cost-sharing under section 1402 of the Patient Protection and Affordable Care Act (42 U.S.C. 18071) has been claimed before the date of the enactment of this Act and for whom such a credit or reduction has been allowed before such date, such allowance shall be suspended until the coverage month described in subsection (a) with respect to such claim for such individual.

(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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