



Unemployment and the Availability of Health Insurance: Issues for Congress

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Summary

When workers lose their jobs, they can also lose their health insurance. If that health insurance is family coverage, then a worker's family members can also become uninsured. For individuals who do not typically use many health care services, loss of insurance might have little impact. However, for individuals who have health problems or who are injured, loss of coverage can be serious. Without insurance, individuals often have difficulty obtaining needed care and problems paying for the care they receive. Unemployed individuals and their family members who cannot postpone care may incur large bills that create or add to financial distress. With the Congressional Budget Office expecting the unemployment rate to remain above 8.0% through 2014, retaining or obtaining health insurance may continue to be difficult for the unemployed and their family members.

The 111th Congress passed legislation that temporarily addressed part of this problem through a temporary premium subsidy for health insurance coverage through Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272). COBRA generally requires certain employers to provide employees and their families the right to continue participation in the employer's health plan in the case of certain events, including involuntary dismissal. To continue coverage, workers must pay both the employee's and the employer's share of the premium, plus a 2% administrative fee. The premium subsidy that reduced the cost of COBRA coverage for certain individuals who lost their jobs expired on May 31, 2010.

The Patient Protection and Affordable Care Act (ACA, P.L. 111-148 as amended) is intended to expand access to health insurance coverage. Some ACA provisions made immediate market reforms to increase consumer access to health insurance, particularly for young adults, individuals with preexisting conditions, and other, higher-risk groups. For example, one provision of the ACA generally allowed dependents up to age 26 to remain eligible for insurance coverage through their parents' plans, which could help the younger unemployed. Some other provisions of the ACA that increase access to coverage do not become effective until 2014, however. Those provisions include expansion of Medicaid to those with modified adjusted gross income (MAGI) up to 133% of the federal poverty level (FPL) and insurance premium credits and subsidies for individuals and families with MAGI below 400% FPL.

Currently, certain individuals cannot benefit from the expanded access to coverage under the ACA because either the provisions do not apply to them or because applicable provisions have not yet taken effect. These individuals could include unemployed individuals and their family members. This report examines access to health insurance coverage among the unemployed population and provides information and analysis to inform the congressional debate on this issue. The report is divided into five parts: (1) analysis showing the diversity of the unemployed population, (2) analysis showing the relationship between unemployment and loss of employer-sponsored health insurance, (3) analysis of certain unemployed individuals at-risk for being uninsured, (4) summaries of current federal programs and tax treatments that can help some unemployed individuals (and their families) obtain or retain health insurance, and (5) additional options that might be considered, including extending the COBRA eligibility period and allowing unemployed individuals under age 65 to "buy-in" to Medicare—that is, to pay premiums to join Medicare before they reach age 65.

Contents

Introduction.....	1
Diversity of the Unemployed Population	2
Age	2
Marital Status and Gender	3
Duration of Unemployment.....	4
Health Status.....	5
Income	5
The Relationship Between Unemployment and Loss of Employer-Sponsored Insurance	7
Employer-Sponsored Health Insurance by Industry: Implications for the Unemployed.....	8
Health Insurance Coverage for Those Entering the Labor Force	9
Other At-Risk Groups	9
Involuntary Part-Time Workers	9
Discouraged Workers.....	10
Current Programs That Assist Some Unemployed with Health Insurance	10
COBRA	10
Health Coverage Tax Credit	11
Medicaid	12
Itemized Deduction for Medical Expenses.....	12
Health Savings Accounts.....	13
The Affordable Care Act and the Unemployed.....	14
Issues for Congress	15
Extending COBRA	16
Extend the Eligibility Period for COBRA Premium Subsidy	16
Extend Eligibility Period for Receiving COBRA Beyond 18 Months	17
Medicare Expansion	17

Figures

Figure 1. Characteristics of the Unemployed, by Gender, Marital Status, and Presence of Children in Household, December 2011.....	4
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Tables

Table 1. Unemployment Rate and Distribution of Unemployed, by Age	3
Table 2. Percentage Reporting Perceived Health Status, by Age.....	5
Table 3. Unemployment Compensation Benefits, by Household Income, 2009	6
Table 4. Employer-Sponsored Insurance Coverage of Workers, by Selected Industry.....	8

Contacts

Author Contact Information.....	18
Acknowledgments	18
Key Policy Staff.....	18

Introduction

One consequence of unemployment is that individuals and their family members can lose their health insurance. Loss of insurance may have little impact on individuals who do not use many health care services. However, for those who have health problems or who are injured, loss of coverage can be serious. Without insurance, individuals often have difficulty obtaining needed care and have problems paying for the care they receive. Unemployed individuals and their family members who cannot postpone care may incur large bills that create or add to financial distress.¹

Some of the unemployed and/or their family members will be eligible for Medicaid coverage. Others may be able to obtain insurance through a spouse or parent or by paying Consolidated Omnibus Budget Reconciliation Act (COBRA) premiums, though the cost of COBRA premiums can be prohibitive.² The Patient Protection and Affordable Care Act (ACA, P.L. 111-148 as amended) is intended to improve access to health insurance coverage, but it does not necessarily provide immediate access to coverage for unemployed individuals and their family members. Some provisions of the ACA that improve access to care have been implemented, but they apply to specific populations (e.g., individuals with preexisting conditions). Other provisions of the ACA that more broadly apply to individuals, including unemployed individuals (e.g., health insurance exchanges), will generally not be implemented until 2014. This results in an interim period when unemployed individuals may have few health insurance options and/or lack the resources to pay for insurance.

Concern about unemployment and health insurance has grown because of the recent economic recession and the jobless recovery.³ In December 2011, the nation's unemployment rate was 8.5% (about 13.1 million individuals), whereas the underemployment rate, which includes individuals who are working part-time because their hours have been cut and other individuals who have given up looking for jobs, reached 15.2% (about 23.4 million individuals).⁴ The Congressional Budget Office (CBO) expects the unemployment rate to remain above 8.0% through 2014,⁵ indicating that the impact of unemployment on health insurance is likely to continue for some time to come.

This report contains information and analysis intended to inform congressional debate over whether to address these issues, and if so, how, and to what extent. It is divided into five parts:

1. analysis showing the diversity of the unemployed population;

¹ The Commonwealth Fund, *Losing Ground: How the Loss of Adequate Health Insurance is Burdening Working Families*, August 2008.

² Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272) generally requires certain employers to provide employees and their families with the right to continue participating in the employer's health plan in the case of certain events, including involuntary dismissal. To continue coverage, workers must pay both the employee's and the employer's share of the premium, plus a 2% administrative fee.

³ The National Bureau of Economic Research (NBER) calculated that the recession began in December 2007 and ended in June 2009. The NBER defines recession as a "significant decline in economic activity spread across the economy, lasting more than a few months, normally visible in real Gross Domestic Product, real income, employment, industrial production, and wholesale-retail sales"; <http://www.nber.org/cycles.html>.

⁴ Bureau of Labor Statistics (hereafter, BLS), *The Employment Situation: December 2011*, published January 6, 2012.

⁵ Congressional Budget Office (CBO), *The Budget and Economic Outlook: Fiscal Years 2012 to 2022*, January 2012, <http://www.cbo.gov/publication/42905>.

2. analysis showing the relationship between unemployment and loss of employer-sponsored health insurance;
3. analysis of certain unemployed individuals at risk for being uninsured;
4. summaries of current federal programs and tax treatments that can help some unemployed individuals obtain or retain health insurance; and
5. additional options that might be considered.

Diversity of the Unemployed Population

The unemployed are a diverse population in terms of age, gender, marital status, income, and other characteristics. These attributes indicate that they likely have differing health care needs and different capacities to pay for care and insurance. This section describes the diversity of the unemployed population, broken down by various demographic categories.

Age

Age can affect the probability that an individual will need health care services. One study finds that adults aged 55 to 64 are more likely to have chronic conditions and are more likely to have higher premiums and out-of-pocket costs compared to younger adults.⁶ Another study finds that only one-fifth of an individual's lifetime health care expenditures occur before age 41, while nearly half accrue after age 65.⁷ As follows, the older unemployed will most likely incur greater health care expenditures than the younger unemployed.

The age of an unemployed individual can also affect the availability of financial resources. Younger unemployed individuals may have less savings to draw from compared to their older counterparts. However, younger unemployed individuals may also be able to rely more on parents for family assistance. For example, under the ACA, individuals under age 26 may be able to qualify for dependent coverage through a parent's health plan.⁸

Table 1 shows the unemployment rate by age group and the age distribution of the unemployed at the beginning of the last recession in December 2007 and again in December 2011.

Unemployment rates have increased since 2007 across all age groups. While the unemployment rates remain highest among individuals aged 16 to 19 and 20 to 24, the unemployment rates increased the most between 2007 and 2011 among individuals aged 25 and older. For those aged 25 and over, unemployment rates nearly doubled across all age categories.

The distribution of the unemployed shows that since the start of the recession in December 2007, unemployed individuals are increasingly older. In December 2011, the share of the unemployed

⁶ Jessica Vistnes, Philip Cooper, Didem Bernard, et al., *Near-Elderly Adults, Ages 55-64: Health Insurance Coverage, Cost, and Access*, Agency for Health Care Policy and Research, Rockville, MD, May 2009, <http://www.ahrq.gov/data/meps/mepsneareld/nearelderly.pdf>.

⁷ Berhanu Alemayehu and Kenneth E. Warner, "The Lifetime Distribution of Health Care Costs," *Health Services Research*, vol. 39, no. 3 (June 2004).

⁸ For more information on the dependent coverage provision in the ACA, see CRS Report R41220, *Preexisting Condition Exclusion Provisions for Children and Dependent Coverage under the Patient Protection and Affordable Care Act (ACA)*, by (name redacted).

population aged 16 to 24 declined compared to December 2007, while the share of the unemployed aged 25 and older increased (from 66.3% in 2007 to 73.2% in 2011). Among those aged 25 and older, the largest percentage point increase in the share of unemployed between 2007 and 2011 was among those aged 55 and older.⁹

Table 1. Unemployment Rate and Distribution of Unemployed, by Age

Age	Unemployment Rate		Distribution of Unemployed	
	December 2007	December 2011	December 2007	December 2011
16 to 19	17.1%	23.1%	15.6%	10.0%
20 to 24	9.4%	14.4%	18.5%	17.0%
25 and older	3.9%	7.2%	66.3%	73.2%
25 to 34	4.9%	9.4%	21.4%	24.3%
35 to 44	3.8%	6.8%	17.5%	17.0%
45 to 54	3.6%	6.5%	16.7%	17.3%
55 and older	3.2%	6.2%	11.2%	14.7%
Total	7.2%	8.5%	—	—

Sources: BLS, Employment Situation December 2011. *Table A-10: Selected Unemployment Indicators, Seasonally Adjusted*, published January 6, 2012; BLS, Employment Situation December 2008. *Table A-7: Selected Unemployment Indicators, Seasonally Adjusted*, published January 4, 2008.

Marital Status and Gender

Figure 1 shows the unemployed population by marital status, gender, and the presence of children in a household. The majority of the unemployed as of December 2011 were single men (36.7%), followed by single women without children (20.6%). Married men comprised 17.8% of the unemployed. Married women accounted for 14.9% of the unemployed, and single women with children comprised 10.0%.

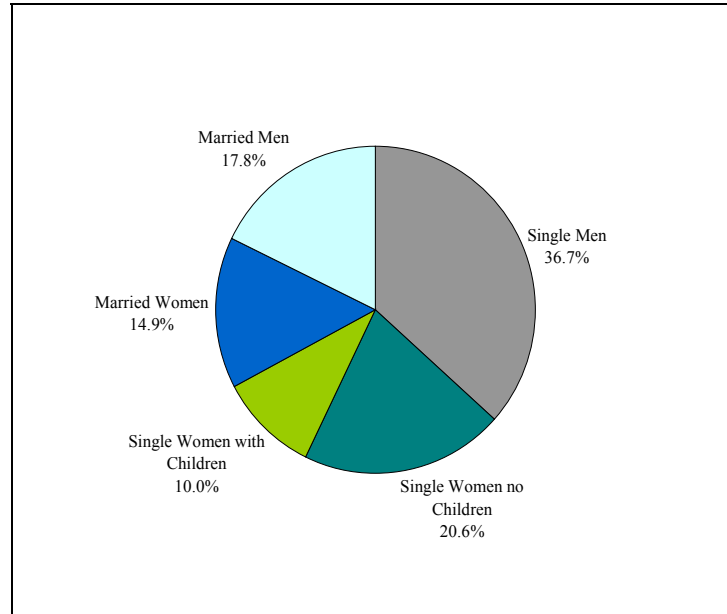
Marital status has a direct impact on the probability that an unemployed individual will continue to be covered by health insurance, in some cases making it more likely that an unemployed individual maintains access, and in other cases making it more likely that the unemployed individual and his or her entire family will lose coverage. Individuals married to a spouse who has a job and insurance coverage may be able to enroll in their spouse's plan if they lose their coverage. On the other hand, workers who are married (or who are the head of a household) may be providing the main health insurance for their families. In 2010, about half of the nonelderly with employer-sponsored coverage received that coverage as a dependent (i.e., as a spouse, partner, or child of an individual with employer-sponsored coverage).¹⁰ A single parent who is the

⁹ When workers retire, they exit the labor force and are no longer counted as participating in the labor force. One explanation for the increase in unemployed individuals aged 55 and older is that uncertainty in the economy has encouraged older workers to delay retirement and remain in the workforce. For more information, see CRS Report R41557, *Older Unemployed Workers Following the Recent Economic Recession*, by (name redacted).

¹⁰ Paul Fronstin, *Sources of Health Insurance and Characteristics of the Uninsured: Analysis of the March 2011 Current Population Survey*, Employee Benefit Research Institute, Issue Brief No. 362, September 2011, http://www.ebri.org/pdf/briefspdf/EBRI_IB_09-2011_No362_Uninsured1.pdf.

head of household and unemployed is also at risk of losing employer-sponsored coverage for the family. The unemployed and/or their dependents may, however, be eligible for public assistance through Medicaid (see the discussion on “Medicaid” below) or the State Children’s Health Insurance Program (CHIP).¹¹

Figure 1. Characteristics of the Unemployed, by Gender, Marital Status, and Presence of Children in Household, December 2011



Source: BLS, Employment Situation, December 2011, Table A-10: Selected Unemployment Indicators, Seasonally Adjusted, January 6, 2012.

Duration of Unemployment

As of December 2011, 58.0% of unemployed individuals had been out of work for 15 weeks or longer. Nearly 43.0% had been unemployed for more than six months in December 2011, compared to 18.0% who were unemployed for more than six months when the recession began in December 2007.¹² Research suggests that the longer a person remains unemployed and uninsured, the greater the delay in seeking medical treatment (see discussion on “Health Status” below).¹³

¹¹ Children’s eligibility for Medicaid and CHIP is not dependent on whether a child lives in a one- or two-parent household; children in two-parent households may also qualify for Medicaid and CHIP. For more information about Medicaid and CHIP, see CRS Report RL33202, *Medicaid: A Primer*, by (name redacted), and CRS Report R40448, *State Children’s Health Insurance Program (CHIP): A Brief Overview*, by (name redacted) and (name redacted).

¹² For a more detailed discussion on the long-term unemployed see CRS Report R41559, *The Trend in Long-Term Unemployment and Characteristics of Workers Unemployed for More than 99 Weeks*, by (name redacted).

¹³ The Commonwealth Fund, *Losing Ground: How the Loss of Adequate Health Insurance is Burdening Working Families*, August 2008.

Health Status

The health status of the unemployed could be affected by whether they have health insurance coverage, their demographic composition, and the duration of their unemployment. As noted earlier, the unemployed today tend to be older than at the beginning of the recession in December 2007, and health expenditures are typically greater for older compared to younger populations. Some research shows that age and health status are strongly correlated, indicating that because the unemployed are older, they may also be less healthy.¹⁴

Table 2 presents data by perceived health status by age (regardless of employment status). In all age groups, around 30.0% of the population reports very good health. However, compared with individuals aged 18 to 24, individuals aged 45 to 64 are more than twice as likely to report fair health and over six times more likely to report poor health. Compared to individuals aged 25 to 44, individuals aged 45 to 64 are about twice as likely to report fair health and more than three times more likely to report poor health.

Table 2. Percentage Reporting Perceived Health Status, by Age

Age	Perceived Health Status				
	Excellent	Very Good	Good	Fair	Poor
18 to 24	41.8%	33.7%	18.6%	5.1%	0.8%
25 to 44	29.7%	35.4%	26.7%	6.7%	1.5%
45 to 64	21.7%	31.2%	29.5%	12.4%	5.2%

Source: The 2008 Medical Expenditure Panel Survey.

As noted earlier, the unemployed today are more likely to have been unemployed for longer than six months, which may further delay necessary medical treatment. One study shows that more than 70.0% of adults with gaps in health care coverage tend to forgo needed care because of cost, up from just over half in 2001.¹⁵ Uninsured adults are also less likely than those with insurance to obtain tests such as blood pressure, cholesterol, and cancer screening.¹⁶ These problems may be further exacerbated among the older unemployed and/or those with longer durations of unemployment.

Income

Individuals who become unemployed may be eligible for unemployment compensation (UC). Eligibility, benefit amount, and duration of UC is determined by each state.¹⁷ Generally, UC benefits are based on wages for covered work during a 12-month period. Most state benefit

¹⁴ Anne Case and Angus S. Deaton, "Broken Down by Work and Sex: How Our Health Declines," in *Analyses in the Economics of Aging*, ed. David A. Wise (University of Chicago Press, 2005), pp. 185-212.

¹⁵ The Commonwealth Fund, *Losing Ground: How the Loss of Adequate Health Insurance is Burdening Working Families*, August 2008.

¹⁶ Ibid.

¹⁷ CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by (name redacted) and (name redacted).

formulas replace half of a claimant's average weekly wage up to a weekly maximum. The average regular UC benefit duration as of December 2011 was 17.5 weeks.¹⁸ Approximately 3.6 million individuals claimed regular state UC benefits in a given week in December 2011.¹⁹ Average weekly unemployment benefits were \$291,²⁰ translating to an average monthly benefit of \$1,261.

The availability of other forms of income for the unemployed is important in determining their ability to pay for health insurance coverage or health care services directly out-of-pocket. Unemployment compensation by itself could be insufficient to pay for these costs. For example, among the unemployed whose only option is to purchase insurance in the individual market, the cost of coverage could be prohibitive. In 2010, the average monthly cost of premiums for coverage bought in the individual market was \$301 for self-only coverage and \$592 for family coverage.²¹ Assuming premiums did not increase in 2011 (which is unlikely), the average monthly cost of the premium for self-only coverage would consume 23.9% of the average monthly unemployment benefit, and the average monthly cost of the premium for family coverage would consume 46.9%.²²

Data on the income distribution of those currently unemployed are not available. However, the most recent data from the Internal Revenue Service show the number of returns with UC by household income in 2009 (see **Table 3**). Individuals with household income of \$15,000 up to \$20,000 are the most likely to have UC, with 11.6% of all returns reporting UC. Examining the distribution of returns with UC by income, about 44% of those who received UC benefits had household income below \$25,000, while nearly 30% had household income of \$50,000 or more.

Table 3. Unemployment Compensation Benefits, by Household Income, 2009

Household Income ^a	Returns with Unemployment Compensation		
	Number (in 1,000s)	% of All Returns in Income Category	Distribution by Income
Less than \$10,000	1,256	5.0%	11.1%
\$10,000 to under \$15,000	1,286	10.3%	11.4%
\$15,000 to under \$20,000	1,323	11.6%	11.7%
\$20,000 to under \$25,000	1,119	11.2%	9.9%
\$25,000 to under \$30,000	839	9.7%	7.4%

¹⁸ Department of Labor, Employment and Training Administration, Unemployed Insurance Data Summary for Fourth Quarter 2011.

¹⁹ Data are for the week ending on or before December 10, 2011. U.S. Department of Labor, "Unemployment Insurance Weekly Claims Report," press release, December 29, 2011, <http://www.workforcesecurity.doleta.gov/press/2011/122911.asp>.

²⁰ Department of Labor, Employment and Training Administration, Unemployed Insurance Data Summary for Fourth Quarter 2011.

²¹ Kaiser Family Foundation, *Survey of People Who Purchase Their Own Insurance*, June 2010, <http://www.kff.org/kaiserpolls/upload/8077-R.pdf>. In the survey, "family coverage" is coverage for two or more individuals.

²² It should be noted that these percentages could vary greatly by state because each state determines the amount of its unemployment benefit and the duration an individual may receive the benefit, and state-specific factors (e.g., state health insurance mandates) affect the cost of health insurance premiums in the individual market.

Household Income ^a	Returns with Unemployment Compensation		
	Number (in 1,000s)	% of All Returns in Income Category	Distribution by Income
\$30,000 to under \$40,000	1,213	8.4%	10.7%
\$40,000 to under \$50,000	910	8.4%	8.1%
\$50,000 to under \$75,000	1,546	8.3%	13.7%
\$75,000 to under \$100,000	851	7.4%	7.5%
\$100,000 and over	956	5.5%	8.5%
Total	11,299	8.0%	—

Source: CRS analysis of 2009 data from the Internal Revenue Service.

- a. Represents individual, couple, or family income where income is defined as adjusted gross income plus statutory adjustments, tax-exempt interest, and nontaxable Social Security benefits.

The ability of the unemployed to purchase insurance depends on income from other sources in addition to UC, current living expenses, and other factors, such as whether individuals in the household have preexisting conditions that could significantly increase the cost of coverage. Beyond UC, individuals also may draw down their savings (including retirement savings) to pay for household expenses.

The Relationship Between Unemployment and Loss of Employer-Sponsored Insurance

Employer-sponsored health insurance represents the largest source of coverage to workers and their dependents. In 2010, about 68.0% of workers received employer-sponsored coverage from an employer, either in their own names (51.0%) or as dependents of another family member's employer (17.0%).²³ Among other factors, the nature of unemployment for an individual (i.e., whether an individual is permanently or temporarily laid off) and the industry in which an individual had been employed can affect an individual's likelihood of having employer-sponsored coverage.

Those most likely to have lost employer-sponsored coverage are the nearly 6.4 million unemployed who report that they have been permanently laid off from their jobs,²⁴ comprising nearly half (48.3%) of the 13.1 million unemployed workers as of December 2011. Another 1.4 million individuals (9.0% of the unemployed) have been temporarily laid off. These workers may still have access to health insurance and other employer-provided benefits (if they were available prior to their change in work status). About 900,000 individuals, 7.0% of the unemployed, left their jobs voluntarily.²⁵

²³ Paul Fronstin, *Sources of Health Insurance and Characteristics of the Uninsured: Analysis of the March 2011 Current Population Survey*, Employee Benefit Research Institute, Issue Brief No. 362, September 2011, http://www.ebri.org/pdf/briefspdf/EBRI_IB_09-2011_No362_Uninsured1.pdf.

²⁴ BLS, Employment Situation, December 2011, *Summary Table A-11: Unemployed Persons by Reason for Unemployment*, Published January 6, 2012.

²⁵ Ibid. The remaining unemployed (about one-third of unemployed workers as of December 2011) are individuals who (continued...)

Employer-Sponsored Health Insurance by Industry: Implications for the Unemployed

A closer look at the industry characteristics of the unemployed provides some insight into their health insurance status prior to becoming unemployed. Individuals who had coverage prior to becoming unemployed may be better able to maintain or obtain coverage while unemployed.²⁶

Table 4 shows the percentage of workers with health insurance in their own names in each industry in 2010, and the number of unemployed workers and the unemployment rate among industries as of December 2011. Workers laid off in the mining and manufacturing sectors had the highest likelihood of having health insurance through their previous employer. Workers laid off in wholesale and retail trade, construction, and leisure and hospitality were the least likely to have health insurance from their previous employer prior to being laid off. The industries with the largest numbers of unemployed individuals are professional and business services, wholesale and retail trade, construction, and leisure and hospitality. Combined, workers in these four industries account for about 46.0% of all unemployed individuals.

Table 4. Employer-Sponsored Insurance Coverage of Workers, by Selected Industry

Industry	Share of Workers with Employer-Sponsored Insurance in Their Own Name, 2010	Number of Unemployed, December 2011 (in 1,000s)	Unemployment Rate, December 2011
Mining, Quarrying, Oil & Gas Extraction	74.6%	59	6.9%
Manufacturing	69.9%	1,217	7.9%
Information	65.7%	235	7.7%
Transportation/Utilities	64.0%	399	7.0%
Financial Activities	63.5%	514	5.6%
Educational & Health Services	60.4%	1,201	5.5%
Professional & Business Services	51.4%	1,403	9.3%
Wholesale/Retail Trade	46.3%	1,701	8.2%
Construction	40.6%	1,327	16.0%
Leisure & Hospitality	27.2%	1,395	10.8%

Sources: Unemployment data derived from BLS, Employment Situation, December 2011. *Table A-14: Unemployed Persons by Industry*, Published January 6, 2012. Percentage with employer-sponsored coverage calculated by CRS from the 2011 Annual Social and Economic Supplement to the Current Population Survey (CPS, representing data from 2010).

(...continued)

are seeking to enter or re-enter the labor force. These individuals are discussed in “Health Insurance Coverage for Those Entering the Labor Force.”

²⁶ For example, workers who had coverage prior to being unemployed could be eligible for COBRA coverage while unemployed. See the “COBRA” section for more information. The Health Insurance Portability and Accountability Act of 1996 (HIPAA, P.L. 104-191) guarantees that some individuals losing employer-sponsored insurance have certain rights to purchase coverage in the individual market. For more information, see (archived) CRS Report RL31634, *The Health Insurance Portability and Accountability Act (HIPAA) of 1996: Overview and Guidance on Frequently Asked Questions*, by (name redacted) et al.

Health Insurance Coverage for Those Entering the Labor Force

Those considered unemployed include individuals seeking to enter or re-enter the workforce and actively looking for a job. Over one-third of the unemployed (35.4%) are just entering the labor force either for the first time (9.7%) or re-entering after being out for some time (25.7%).²⁷ This latter group could include family caregivers looking to return to work, retirees looking to return to work to supplement their income in the “down” economy, or those looking to return to work after an extended illness.²⁸

Those seeking to enter or re-enter the labor force did not necessarily lose employer-sponsored coverage in their own names because they may not have had access to such coverage. Some may have coverage through their spouse or parents, some may have retiree health benefits from a prior employer, or some may be purchasing COBRA; others may be uninsured. For those who do not have coverage, entering or re-entering the workforce may not provide immediate access to employer-sponsored insurance. In 2011, 72% of newly insured employees were subject to a waiting period before becoming covered, and the average waiting period was 2.2 months.²⁹

Other At-Risk Groups

Complicating the analysis of unemployment and insurance coverage are certain other at-risk groups who are not technically unemployed but who do not have coverage due to a change in work status. These other at-risk groups include involuntary part-time workers and discouraged workers who have left the workforce altogether.³⁰ If these individuals were counted in the December 2011 unemployment rate, it would increase from 8.5% to 15.2%.³¹ Legislative proposals to help the unemployed with health insurance typically focus solely on individuals who do not have a job and are actively searching for work; however, individuals in other at-risk groups may also be without health insurance.

Involuntary Part-Time Workers

The number of involuntary part-time workers has decreased over the past year, from 8.9 million to 8.1 million. These are individuals who wanted to work full-time but instead had to work part-time.³² Part-time workers are 1.5 times more likely to be uninsured (27.6%) compared to full-time workers (17.6%),³³ as employers are more likely to provide health benefits to full-time workers

²⁷ BLS, Employment Situation, December 2011, *Summary Table A-11: Unemployed Persons by Reason for Unemployment*, January 6, 2012.

²⁸ CRS analysis of the 2011 Annual Social and Economic Supplement to the CPS (representing data from 2010).

²⁹ Kaiser Family Foundation and Health Research and Educational Trust, *Employer Health Benefits: 2011 Annual Survey*, September 27, 2011, <http://ehbs.kff.org/>.

³⁰ Only individuals who are actively seeking work and are available for work are included in the statistics counting the unemployed. Individuals who have stopped looking for work (discouraged workers) are not typically included in the statistics counting the unemployed.

³¹ BLS, Employment Situation, December 2011, *Summary Table A-15: Alternative Measure of Labor Underutilization*, January 6, 2012.

³² BLS, Employment Situation, December 2011, *Summary Table A: Household Data Seasonally Adjusted*, January 6, 2012.

³³ Paul Fronstin, *Sources of Health Insurance and Characteristics of the Uninsured: Analysis of the March 2011* (continued...)

than to part-time workers. In 2011, about 60.0% of all employers offered health benefits, but only 16.0% of these employers offered health benefits to part-time workers.³⁴

Discouraged Workers

Another group at risk for not having health insurance coverage is discouraged workers—individuals not currently looking for work because they believe jobs are not available for them. As of December 2011, there were approximately 945,000 discouraged workers. This number has more than doubled since the recession began in December 2007.³⁵

Current Programs That Assist Some Unemployed with Health Insurance

Current federal law includes several programs and tax treatments that might help some unemployed with respect to health insurance. Programs and tax treatments for which coverage is directly or otherwise closely related to being unemployed include the mechanisms listed below. In subsequent sections, each of these programs and tax treatments is briefly summarized and assessed. The assessment considers the advantages and disadvantages of each mechanism from the perspective of unemployed individuals.

- COBRA
- Health Coverage Tax Credit
- Medicaid
- Itemized Deduction for Medical Expenses
- Health Savings Accounts

COBRA

Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272) generally requires employers with 20 or more workers to provide employees and their families the right to continue participation in the company's group health plan in case of certain events, one of which is involuntary dismissal. Depending on the triggering event, the continuation period generally lasts up to 18 or 36 months.³⁶

(...continued)

Current Population Survey, Employee Benefit Research Institute, Issue Brief No. 362, September 2011, http://www.ebri.org/pdf/briefspdf/EBRI_IB_09-2011_No362_Uninsured1.pdf.

³⁴ Kaiser Family Foundation and Health Research and Educational Trust, *Employer Health Benefits: 2011 Annual Survey*, September 27, 2011, <http://ehbs.kff.org/>.

³⁵ BLS, Employment Situation, December 2011, *Summary Table A: Household Data Seasonally Adjusted*, January 6, 2012; BLS, Employment Situation, December 2008, January 4, 2008.

³⁶ CRS Report R40142, *Health Insurance Continuation Coverage Under COBRA*, by (name redacted). Forty states have continuation laws of their own which extend COBRA-like protections to firms with fewer than 20 employees or lengthen the continuation period for some individuals. Kaiser Family Foundation, *Expanded COBRA Continuation* (continued...)

- One attraction of COBRA for unemployed individuals is that they can continue in the health plan they had while working; this is especially important when the plan is linked to particular doctors and other providers. Additionally, employer plans have group rates, which often are lower than individual market insurance premiums for similar benefits when individuals are older or have health conditions.
- One limitation of COBRA for the unemployed has been that covered individuals usually have to pay 102% of the health plan's full premium (i.e., both the employee's and the employer's share, plus a 2% administrative fee). Without subsidies, typical premiums can consume a large part of an unemployment benefit, or even exceed it in the case of family coverage.³⁷
- A second limitation of COBRA for the unemployed is that if a firm files for bankruptcy under Chapter 7 of Title 11 of the U.S. Code, the employer ceases to exist. Because COBRA is provided through the employer, if there is no employer, there is no COBRA obligation.³⁸

Health Coverage Tax Credit

The Health Coverage Tax Credit (HCTC) is an individual income tax credit that is both refundable (allowing taxpayers to receive the full amount regardless of their tax liability) and advanceable to health plans (allowing taxpayers to benefit from the credit while they have coverage, not just after they file their returns the next year). The 72.5% credit³⁹ can be applied to premiums for 11 types of health insurance, 4 of which (including COBRA) are available nationwide, but 7 of which first require state approval. Eligible taxpayers must be receiving Trade Adjustment Assistance (TAA) benefits (or would be except that they have not exhausted their unemployment benefits), Reemployment Trade Adjustment Assistance benefits, or pension benefits being paid because the Pension Benefit Guaranty Corporation has taken over their pension plan.⁴⁰ Individuals are not eligible if they are enrolled in employer-sponsored insurance, Medicare Part B, Medicaid, or CHIP (among others), or if they are entitled to Medicare Part A (among others).⁴¹

(...continued)

Coverage for Small Firm Employees, 2010, <http://statehealthfacts.org/comparetable.jsp?ind=357&cat=7&sub=88http://www.statehealthfacts.org/comparetable.jsp?cat=7&ind=357&typ=5>.

³⁷ *Squeezed! Caught between Unemployment Benefits and Health Care Costs*. Families USA January 2009.

³⁸ Bankruptcies under Chapter 7 of Title 11 of the U.S. Code are distinct from Chapter 11 bankruptcies. A Chapter 7 bankruptcy is a business liquidation and the employer goes out of existence; a Chapter 11 bankruptcy is a reorganization and the employer remains in business and must therefore honor its COBRA obligations. See CRS Report R40142, *Health Insurance Continuation Coverage Under COBRA*, by (name redacted).

³⁹ When the HCTC was initially authorized in 2002 under the Trade Act of 2002 (P.L. 107-210), the subsidy rate was 65%. The American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5) temporarily increased the subsidy rate to 80%, with a sunset date of February 13, 2011. Under the Trade Adjustment Assistance Extension Act of 2011 (P.L. 112-40), the subsidy rate of 72.5% became retroactively effective on that date.

⁴⁰ Prior to a change in legislation in 2011, Reemployment Trade Adjustment Assistance (RTAA) was known as Alternative Trade Adjustment Assistance (ATAA). To receive TAA or RTAA benefits, individuals must meet certain eligibility requirements. For more information see CRS Report R42012, *Trade Adjustment Assistance (TAA) for Workers*, by (name redacted).

⁴¹ The HCTC eligibility rules are complex. For more information, see CRS Report RL32620, *Health Coverage Tax* (continued...)

- One attraction of the HCTC for the unemployed is that the 72.5% premium credit applies regardless of annual income, which can help individuals who have income earned earlier in the year before they become unemployed or who have a spouse who remains employed.
- Limitations of the HCTC for the unemployed include restricted eligibility categories, short eligibility periods for some TAA beneficiaries (eligibility can range from less than a year to over two years, depending on state residency and other circumstances), and the inability of cash-strapped taxpayers to pay the remaining part of the premium.⁴²

Medicaid

Medicaid is a federal-state entitlement program targeted toward low-income individuals. It finances health and long-term care services primarily for the elderly, individuals with disabilities, members of families with dependent children, and certain other pregnant women and children. Participants must meet low-income and sometimes limited-resource or asset tests that are established by states within federal guidelines. States must cover certain categorical groups and provide various defined services, but they have options to cover other groups and add other services.⁴³

- One attraction of Medicaid for the unemployed is that the program can pay for a wide range of medically necessary treatments, usually with small deductibles or copayments relative to employer-sponsored coverage.
- A limitation of Medicaid for the unemployed is that they might not meet income and asset tests the states impose, and some (such as childless, non-disabled adults) might not be categorically eligible. In addition, the doctors and other providers they had prior to becoming unemployed might not accept Medicaid. (See discussion about future expansions to Medicaid to non-traditional groups in section on “The Affordable Care Act and the Unemployed.”)

Itemized Deduction for Medical Expenses

Taxpayers who itemize their deductions may deduct certain unreimbursed medical expenses that exceed 7.5% of their adjusted gross income. These medical expenses include insurance premiums, insurance deductibles and copayments, and direct payments to providers, among other things. Most state income tax systems also allow a deduction for medical expenses, providing additional tax savings.

- One attraction of the itemized deduction for the unemployed is that it has no employment-related eligibility tests; some individuals who have lost full-time

(...continued)

Credit, by (name redacted).

⁴² For more information about the limitations of the HCTC, see Stan Dorn, *Health Coverage Tax Credits: A Small Program Offering Large Policy Lessons*, The Urban Institute (February 2008).

⁴³ For more information, see CRS Report RL33202, *Medicaid: A Primer*, by (name redacted), and (archived) CRS Report RL31698, *Transitional Medical Assistance (TMA) Under Medicaid*, by (name redacted).

jobs but are not defined as unemployed (such as those who can only find intermittent part-time work) could still use it.

- A limitation of the itemized deduction is that one must itemize deductions to use it; most lower-income taxpayers find that their standard deduction is larger. The 7.5% adjusted gross income floor further limits its use. In addition, deductions result in little tax savings for lower-income taxpayers because their marginal tax rates are relatively low (typically 10.0% or 15.0%). If taxpayers have no taxable income prior to considering their medical expenses, the deduction would not help them.
- A second limitation of the itemized deduction is that it is not advanceable. Individuals who plan to deduct their medical expenses must still pay for the medical expenses at the time they are used. For example, a medical expense paid in March 2010 could not be itemized until taxes are filed in 2011. This could be a significant financial burden for individuals, particularly for those who are unemployed.

Health Savings Accounts

Health Savings Accounts (HSAs) are tax-advantaged accounts that individuals can use to pay unreimbursed qualified medical expenses such as deductibles, copayments, and services not covered by insurance. Contributions, which are either excluded from taxes (if made by employers) or deductible (if made by individuals) can be made only when individuals have qualifying high-deductible health insurance; for most, the annual contributions in 2012 are limited to \$3,100 for self-only coverage and \$6,250 for family coverage. Amounts not used one year can be rolled over to the next. Withdrawals used to pay health insurance premiums usually are taxable, but not when one is receiving unemployment benefits or within a COBRA continuation period.⁴⁴

- One attraction of HSAs is that they can serve as a rainy-day health care fund. If individuals contribute to them regularly over a number of years, they could accumulate a balance that can be used when they are unemployed. HSAs are portable and not tied to continued work for a particular employer.
- A limitation of HSAs for the unemployed is that one must have high-deductible insurance (deductibles of at least \$1,200 for single coverage or \$2,400 for family coverage in 2012) in order to be eligible to make contributions to the HSA; many individuals are reluctant to accept the risk of such a high deductible, even though high-deductible insurance premiums are somewhat lower. Individuals with high-deductible insurance sometimes do not contribute to an HSA or, if they do, they use the money soon afterwards and cannot build up substantial balances.⁴⁵

⁴⁴ For more information about HSAs, see CRS Report RL33257, *Health Savings Accounts: Overview of Rules for 2012*, by (name redacted).

⁴⁵ U.S. Government Accountability Office, *Health Savings Accounts: Participation Increased and Was More Common Among Individuals with Higher Incomes*, GAO-08-474R, April 1, 2008, <http://www.gao.gov/assets/100/95416.pdf>.

The Affordable Care Act and the Unemployed

The ACA⁴⁶ provides a number of immediate reforms to the health insurance market. Several provisions of the ACA are intended to increase consumer access to health insurance.⁴⁷ For example, the ACA creates the Pre-Existing Condition Insurance Plan (PCIP). The PCIP is a temporary, high-risk pool program that provides coverage to individuals who have been uninsured for at least six months, have a preexisting condition or have been denied coverage because of a health condition, and are U.S. citizens or legal aliens.⁴⁸ The PCIP provides access to health insurance to these individuals, but it does not provide financial assistance to the individuals. The PCIP operates in every state and is to remain in effect until 2014, when individuals in the program will have access to coverage through the health insurance exchanges created by the ACA. As of November 2011, there were 44,852 individuals throughout the country enrolled in the PCIP.⁴⁹

An ACA provision that is helping certain unemployed individuals under age 26 obtain or retain health insurance is the expansion of dependent coverage. Effective for plan years beginning after September 23, 2010, the ACA generally requires that if a plan provides for dependent coverage of children, the plan must continue to make such coverage available for an adult child until age 26.⁵⁰ This provision is effective only if the parent has health insurance and that insurance covers dependents. Recently, the Department of Health and Human Services reported that since the policy took effect in September 2010, the percentage of adults aged 19-25 who are covered by private insurance has increased significantly, from 64% in September 2010 to 73% in June 2011.⁵¹

Beyond the immediate reforms to the health insurance market, beginning in 2014 the ACA will also provide premium tax credits and cost-sharing subsidies for certain eligible individuals who obtain coverage through a health insurance exchange, which could include some unemployed individuals.⁵² The premium tax credit will be an advanceable, refundable tax credit, meaning taxpayers can benefit from the credit before the end of the tax year and may claim the full credit amount even if they have little or no federal income tax liability. Those who qualify for premium credits and are enrolled in certain plans in the health insurance exchange could also be eligible for assistance in paying any required cost-sharing for their health services.

⁴⁶ P.L. 111-148 as amended.

⁴⁷ See CRS Report R42069, *Private Health Insurance Market Reforms in the Patient Protection and Affordable Care Act (ACA)*, by (name redacted) and (name redacted).

⁴⁸ For more information about the PCIP program, see <http://cciio.cms.gov/programs/pcip/index.html>.

⁴⁹ Department of Health and Human Services, "State by State Enrollment in the Pre-Existing Condition Insurance Plan, as of November 30, 2011," press release, January 13, 2012, <http://www.healthcare.gov/news/factsheets/2012/01/pcip01132012a.html>.

⁵⁰ CRS Report R41220, *Preexisting Condition Exclusion Provisions for Children and Dependent Coverage under the Patient Protection and Affordable Care Act (ACA)*, by (name redacted).

⁵¹ Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, *2.5 Million Young Adults Gain Health Insurance Due to the Affordable Care Act*, December 2011, <http://aspe.hhs.gov/health/reports/2011/YoungAdultsACA/ib.shtml>.

⁵² See CRS Report R41137, *Health Insurance Premium Credits in the Patient Protection and Affordable Care Act (ACA)*, by (name redacted) and (name redacted).

In addition, in 2014, or sooner at state option, the ACA will expand Medicaid access to certain individuals who are under age 65 with modified adjusted gross income (MAGI)⁵³ up to 133% of the federal poverty level (\$30,657 for a family of four in 2012).⁵⁴ The ACA not only expands eligibility to a group that is not currently eligible for Medicaid (low-income childless adults), but also raises Medicaid's mandatory income eligibility level for certain existing groups up to 133% of FPL.⁵⁵

Since most of these provisions will not be implemented until 2014, this results in an interim period when unemployed individuals lack assistance in obtaining health insurance coverage. While some unemployed individuals may access coverage before then (due to possible early state expansions, for example), most unemployed individuals will not obtain financial assistance for coverage before 2014.

Issues for Congress

It is difficult to predict how long Americans will continue to feel the effects of the recent economic recession. Even if economic growth recovers, growth in employment may lag; the CBO expects the national unemployment rate to remain above 8.0% through 2014.⁵⁶ Unemployment could remain high in some areas and for some groups even after the national average goes down.⁵⁷ Whatever the pattern, the unemployed might have difficulty obtaining and/or affording health insurance for some time.

As shown in the preceding discussions, the unemployed are not a homogenous group. Some individuals lose employer-sponsored health insurance when they lose their jobs, but other unemployed individuals may not have coverage to begin with. In addition, there are involuntary part-time workers and discouraged workers who do not have coverage. These issues raise related policy questions, including, Should the federal government provide assistance to all of these groups? If so, what are the advantages and disadvantages of providing assistance? For those considering assistance, what are the advantages and disadvantages to giving higher priority to some groups? Several issues are involved:

- Given that many people will receive assistance in 2014, is it preferable to maintain the status quo until then?
- Among those who support more assistance and/or immediate assistance:

⁵³ For more information about MAGI, see CRS Report R41997, *Definition of Income in ACA for Certain Medicaid Provisions and Premium Credits*, coordinated by (name redacted).

⁵⁴ The ACA specifies that an income disregard in the amount of 5% FPL will be deducted from an individual's income when determining Medicaid eligibility based on MAGI, thus the effective upper-income eligibility threshold for such individuals in this new eligibility group will be 138% FPL.

⁵⁵ To qualify for Medicaid, an individual must meet both categorical (i.e., must be a member of a covered group, such as children, pregnant women, families with dependent children, the elderly, or the disabled) and financial eligibility requirements. There are approximately 50 different eligibility "pathways" into Medicaid, including those that existed before the ACA was enacted. For more information, see CRS Report R41210, *Medicaid and the State Children's Health Insurance Program (CHIP) Provisions in ACA: Summary and Timeline*, by (name redacted) et al.

⁵⁶ CBO, *The Budget and Economic Outlook: Fiscal Years 2012 to 2022*, January 2012, <http://www.cbo.gov/publication/42905>.

⁵⁷ For more information see *Metropolitan Area Employment and Unemployment: December 2009*, U.S. Bureau of Labor Statistics News, January 22, 2010, at <http://www.bls.gov/news.release/pdf/metro.pdf>.

- In general, there appears to be a trade-off between concerns about cost and concerns about equity. Providing assistance to all the groups mentioned above would cost more than helping just those who lost employer-sponsored coverage, but on grounds of equity it may be difficult to justify not helping all. However, if the immediate goal is not to allow the number of uninsured individuals to increase, there is something to be said for giving higher priority to those who recently had coverage.
- If assistance is given to those who did not have employer-sponsored coverage, what form of coverage should they have? Should they be enrolled in public programs such as Medicaid or Medicare, or should they be permitted private insurance options? If the latter were allowed, what benefit and consumer protection standards might apply?

While comprehensive health care reform has been enacted, it will not provide immediate health insurance coverage to all currently unemployed individuals. For those considering more immediate action, there are a number of legislative proposals that could be considered in the 112th Congress. The proposed programs would likely be temporary, however, and would provide some coverage until the ACA is fully implemented and the health care exchanges are operational (in 2014).

Extending COBRA

Legislative proposals to extend COBRA include extending the eligibility period for the COBRA premium subsidy included in the American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5 and subsequently extended) to those unemployed after May 31, 2010, and/or extending the eligibility period for receiving COBRA at unsubsidized rates beyond 18 months.

Extend the Eligibility Period for COBRA Premium Subsidy

A provision of ARRA, as extended through subsequent amendments, provided a 65% COBRA subsidy in the form of an employer tax credit for eligible workers who became unemployed before May 31, 2010. The subsidy was limited to 15 months, and individuals had to pay the remaining balance. This provision has since expired. The COBRA premium subsidy was not available for those who lost their jobs after May 31, 2010. One advantage of further expanding eligibility for COBRA premium subsidies is that the legislative and regulatory frameworks (including administrative procedures and legal interpretations) are already in place. A disadvantage for the unemployed is that COBRA subsidies are limited to only a portion of those out of work, and they do not apply to those who may be just entering or re-entering the workforce after an extended absence. In addition, some employers find changes to COBRA administratively burdensome,⁵⁸ and the extensions would add expenditures to an already strained federal budget.⁵⁹

⁵⁸ Rebecca Vesely, "Feeling COBRA's Bite," *Modern Healthcare*, May 18, 2009.

⁵⁹ The Joint Committee on Taxation estimated the COBRA subsidy to cost \$24.5 billion over three years and the HCTC expansion \$457 million. Joint Committee on Taxation, *Estimated Budget Effects of the Revenue Provisions Contained in the Conference Agreement for H.R. 1, the "American Recovery and Reinvestment Tax Act of 2009,"* JCX-19-09, February 12, 2009, <http://www.jct.gov/publications.html?func=startdown&id=1172>.

Extend Eligibility Period for Receiving COBRA Beyond 18 Months

In addition to extending the COBRA premium subsidy, another possible option is to extend the COBRA eligibility period, which now is generally limited to 18 months. An extension could help individuals who need more time in a prolonged recession (or in its after effects) to find jobs that provide health insurance. As noted earlier, a limitation of unsubsidized COBRA for the unemployed has been that covered individuals usually have to pay 102% of the health plan's full premium. Because most employers subsidize health insurance premiums for their workers, the 102% COBRA premium may not be affordable for the unemployed, especially when compared with the average level of unemployment compensation. Employers might argue that extended coverage would be most attractive to individuals who have (or whose family members have) serious health problems. If this were the case, covering these individuals in the plan could raise costs for others in the plan. While extending COBRA would not increase federal expenditures, it would provide access to health insurance, but not necessarily financial relief from paying for the coverage, to individuals.

Medicare Expansion

As noted in the preceding discussion, individuals aged 55 and older are a growing segment of the unemployed population. Unemployed individuals in this age group often have more difficulty finding another job (or at least another job comparable to the one they lost), have fewer working years remaining to recover financially, and are at an increased risk of health problems. Some have proposed allowing older unemployed individuals to buy into Medicare early, that is, to join the Medicare program by paying premiums. Individuals are generally not eligible for Medicare until age 65.⁶⁰

Many different design options need to be considered in this approach, including who would be eligible and the possibility of subsidies. One approach is not to provide subsidies, but instead to fully fund the program by charging premiums for individuals aged 62 to 64. Individuals who do not have employer-sponsored health insurance or Medicaid could voluntarily enroll in Medicare. Premiums would equal the average expected cost of the program plus an administrative fee of 5%. CBO estimated that the annual premium for single coverage would be \$7,600 in 2011. CBO also estimated that this would indirectly increase mandatory spending for Social Security, as it may encourage some individuals to retire earlier than they otherwise would have.⁶¹

A Medicare buy-in is similar in some ways to expanding the eligibility period for COBRA beyond the 18-month window. Both would require enrollees to pay the full cost of the coverage. There are advantages, however, to the COBRA option versus the Medicare buy-in. First, the COBRA option would be available to all the unemployed who have access to employer-sponsored insurance through former employment, regardless of age. Second, for the older unemployed, the premiums would most likely be lower under the COBRA option because the pool of applicants would include a more diverse group in terms of age and the administrative cost (of 2%) is lower. The advantage of the Medicare buy-in proposal compared to the COBRA option

⁶⁰ Certain individuals can qualify for Medicare under age 65 based on disability, although in most circumstances there is a 24-month waiting period for Medicare once the individual is deemed disabled.

⁶¹ For a more detailed description of this proposal see Congressional Budget Office (CBO), *Budget Options Volume 1: Health Care*, 2008.

is that the Medicare buy-in would cover older workers re-entering the labor force, whereas the COBRA option would apply only to those individuals who had left a job.

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