AMERICAN ACADEMY *of* ACTUARIES

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December 12, 2017

The Honorable Kevin Brady
Chairman, Committee on Ways & Means
1102 Longworth Building
Washington D.C. 20515

The Honorable Richard Neal
Ranking Member, Committee on Ways & Means
1139E Longworth Building
Washington D.C. 20515

The Honorable Orrin Hatch
Chairman, Committee on Finance
219 Dirksen Building
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member, Committee on Finance
219 Dirksen Building
Washington, DC 20510

Re: Potential Adverse Consequences of Eliminating the Affordable Care Act's Individual Mandate

Dear Chairman Brady; Chairman Hatch; Ranking Member Neal; and Ranking Member Wyden:

On behalf of the Health Practice Council (HPC) of the American Academy of Actuaries,[1] I would like to offer comments related to including a provision to eliminate the Affordable Care Act's (ACA) individual mandate as you work to reconcile the House and Senate versions of H.R. 1, the *Tax Cuts and Jobs Act*. When considering this legislation, policymakers should consider the potential adverse consequences of eliminating the mandate, including increases in premiums and the number of uninsured, unless adequate alternative mechanisms or market stabilization provisions are implemented. In addition, the HPC has concerns about the bill's inclusion of an elimination of the individual mandate being motivated as a means to offset revenue reductions in your efforts to provide tax cuts and reform the tax code. We appreciate this opportunity to comment on the unique actuarial concerns involved in this issue. The mission of the American Academy of Actuaries is to inform public policy deliberations in a nonpartisan, objective way.

Eliminating the individual mandate would lead to premium increases.

The individual mandate is an integral component of the ACA. It helps support the law's pre-existing condition protections—the provisions that prohibit insurers from denying coverage or charging higher premiums based on health status. The mandate helps encourage the young and healthy, as well as the old and sick, to obtain coverage, thus achieving the balanced risk pool required to keep premiums affordable and stable. In practice, its financial penalty is usually low as a share of premiums, many individuals are exempt, and enforcement is weak. Nevertheless, the mandate, especially in conjunction with the premium- and cost-sharing subsidies, likely increases enrollment above what it would otherwise be. Eliminating the mandate without implementing an alternative means to drive enrollment among healthy individuals would likely result in a deterioration of the risk pool due to lower coverage rates among lower-cost individuals who could defer purchasing insurance until a health need arose. Premiums would increase as a result, reducing affordability and eroding pre-existing condition protections.

[1] The American Academy of Actuaries is a 19,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

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Changes made to eliminate the mandate after premiums are finalized could weaken insurer solvency.
Premiums for a given year reflect insurers' expectations regarding the composition of the risk pool for that year. Premium rates for 2018 have already been finalized. If the individual mandate were to be eliminated for 2018, a deterioration in the risk pool profile would result; premiums would be too low and would no longer match the costs of those covered. This could result in insurer losses and solvency concerns.

Increasing risks could cause an increase in insurer withdrawals from the market.
Increased uncertainty and instability regarding future enrollment, premium rates, and risk pool profiles if coverage incentives are eliminated would increase the risk of insurers incurring losses. Insurers would likely reconsider their future participation in the market. This could lead to severe market disruption and loss of coverage among individual market enrollees.

Strong alternative mechanisms to encourage enrollment and/or significant market stabilization provisions would be needed to counteract an elimination of the mandate.
Without any offsetting actions, eliminating the individual mandate would result in lower enrollment, a deterioration of the risk pool, and higher premiums. Expanded availability of short-term duration policies and association health plans could exacerbate these results by reducing the barriers to non-compliant coverage. To offset these results, alternative mechanisms to the mandate that would encourage ACA plan enrollment among young and healthy individuals or other market stabilization provisions (e.g., external reinsurance funding) would be needed. Notably, while making cost-sharing reduction reimbursements to insurers, as would be provided for through separately-introduced legislation, would offset premium increases due to the prior termination of those payments, it would not offset premium increases due to an elimination of the mandate.

Primary consideration should be given to the consequences of eliminating the individual mandate on premiums, coverage rates, and the stability of the insurance market. These issues are not appropriately considered when such proposals are added to unrelated legislation as a "pay-for" to enable other priorities.

As the conference committee proceeds on reconciling the House and Senate versions of the *Tax Cuts and Jobs Act*, the American Academy of Actuaries' Health Practice Council strongly encourages you to consider the adverse consequences of eliminating the individual mandate. We would welcome the opportunity to discuss our concerns with you in more detail. If you have questions or would like to meet with us, please contact David Linn, the Academy's senior health policy analyst, at 202-785-6931 or linn@actuary.org.

Sincerely,

Shari Westerfield, MAAA, FSA
Vice President, Health Practice Council
American Academy of Actuaries

cc: Members of the U.S. Senate
Members of the U.S. House
U.S. Governors