



HIGHER COSTS MORE CONFUSION LESS COVERAGE

How the Health Care Law Affects Employer-Provided Health Care Coverage

A review of internal analyses and information
produced by members of the President's
Council on Jobs and Competitiveness

Staff Report of the U.S. House Committee on Energy and Commerce

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On January 21, 2011, President Barack Obama created the President’s Council on Jobs and Competitiveness (“Council”) to solicit advice from 27 leaders in business, labor, and academia regarding the best methods for creating jobs, opportunity, and prosperity. The Council is comprised of individuals representing the following companies and groups¹:

AFL-CIO	DuPont	NextEra Energy
American Express	Eastman Kodak Company	Permac Industries
The Boeing Company	Facebook	Pritzker Realty Group
BNSF Railway	General Electric	Revolution LLC
Broad Institute of MIT and Harvard	Hooven-Dayton Corporation	Southwest Airlines
Centerbridge Partners	impreMedia	TIAA-CREF
Citigroup	Intel	UBS
Comcast Corporation	Kleiner Perkins Caufield & Byers	UFCW
		Xerox

The President asked the Council to find ways to “encourage the private sector to hire and invest in American competitiveness.”² Since its creation, the Council has held several meetings regarding strategies to improve the economy and create jobs. The Council has stated generally that government initiatives should include new policies as well as a thorough review of existing policies that may impose unnecessary costs and burdens on businesses and the economy.

Because the Council has a unique role in advising the President on matters of economic policy, the Committee on Energy and Commerce (“Committee”) asked the members of the Council to describe the effects of the Patient Protection and Affordable Care Act (PPACA)³ on their companies. As the law affects nearly one-fifth of the American economy and imposes costly new requirements on both businesses and individuals, the Committee seeks to uncover here the practical impacts of the law. This report will show that PPACA is raising costs, fostering uncertainty that impedes growth and planning, and leading employers to consider dropping employee health coverage altogether.

The conclusions made in this report are consistent with other studies conducted regarding the consequences of the law for employer-provided health insurance. The National Federation of Independent Business (NFIB) has conducted several studies on PPACA and its effects. In July 2011 the NFIB reported that “by overwhelming margins, small employers who have some knowledge of the new law think that PPACA will not reduce the rate of health care (insurance)

¹ The Jobs Council, <http://www.jobs-council.com/about> (last visited Apr. 23,, 2012). The representatives from Boeing, the Broad Institute, and Xerox are Ex Officio Members of the Council. Since filing for Chapter 11 the representative from Eastman Kodak has resigned from the Council.

² Marc Ambinder, *GE’s Immelt to Head Obama’s New ‘Jobs and Competitiveness’ Board*, NATIONAL JOURNAL (Jan. 21, 2011), <http://www.nationaljournal.com/whitehouse/ge-s-immelt-to-head-obama-s-new-jobs-and-competitiveness-board-20110121>.

³ Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010).

cost increases, will not reduce the administrative burden, [and] will increase taxes....”⁴ A later study concluded that tax on health insurers could reduce private-sector employment by 125,000 to 249,000 jobs.⁵ Similarly, the U.S. Chamber of Commerce found that “health insurance premiums will likely increase” and that cost shifting from Medicare cuts will occur.⁶

This report details the findings of the Committee’s investigation.

“This will cost more”⁷

Documents provided by members of the Council confirm that the mandates, taxes, and fees contained in PPACA will increase the cost of providing health care and insurance premiums. These corporations face a future of “potential indirect cost increase[s] through higher medical costs across all [the] U.S.” due to fees on health insurers, pharmaceutical manufacturers, and medical device manufacturers mandated by PPACA.⁸

By contrast, the Administration repeatedly promised the American people that PPACA would lower both overall health care costs and their premiums.⁹ Many of the Administration’s claims regarding the purported cost savings in PPACA have failed to materialize.¹⁰ The fallacy of cost savings is echoed throughout the documents submitted to the Committee by the members of the Council. For instance, a “True or False” analysis by Southwest Airlines regarding PPACA’s effects on the company directly rebuts the Administration’s claims. In response to the question of whether “[h]ealthcare reform will lower Southwest’s healthcare costs,” the company responded: “Definitely false.” Southwest explained:

“For example, over the next ten years, the legislation will impose taxes and fees of \$107 billion on insurance companies...as well as on pharmaceutical manufacturers. Without question, some or all of those taxes and fees will be passed on to Southwest Airlines. Also, certain coverage provisions...will increase Southwest’s costs.”¹¹

⁴ *PPACA One Year Later: Small Business Owners Expect Costs to Rise*, NFIB, <http://www.nfib.com/research-foundation/surveys/healthcare-year1> (last visited Apr. 23, 2012).

⁵ *NFIB Research Foundation Study: Health Insurance Tax To Cost 125,000 to 249,000 Private-Sector Jobs*, NFIB, <http://www.nfib.com/research-foundation/studies/hit-cost> (last visited Apr. 23, 2012).

⁶ U.S. CHAMBER OF COMMERCE, *CRITICAL EMPLOYER ISSUES IN THE PATIENT PROTECTION AND AFFORDABLE CARE ACT 4-5* (2010), available at http://www.uschamber.com/sites/default/files/100426_critical_employer_issues_ppaca.pdf.

⁷ *Breaking News: Deborah Hamilton’s Comments on Recent Health Care Reform Legislation*, PRO NEWSLETTER (TIAA-CREF, Charlotte, N.C.), Apr. 13, 2010, at 10.

⁸ Mercer Consulting, *Health Care Reform Initial Analysis for Comcast*, Mar. 30, 2010, at 3. [hereinafter, “Mercer-Comcast Analysis I”]. Comcast communicated to staff that the Mercer reports reflect the analysis and conclusions of that organization and should not be attributed to Comcast.

⁹ Barack Obama, *State of the Union Address Delivered Before a Joint Session of Congress* (Jan. 27, 2010), available at www.whitehouse.gov/the-press-office/remarks-president-state-union-address.

¹⁰ *See True Cost of PPACA: Effects on the Budget and Jobs Before the Subcomm. on Health of the H. Comm. on Energy & Commerce*, 112th Cong. 1 (2011) (statement of Douglas Holtz-Eakin, President, American Action Forum).

¹¹ Paul Flanigan, Commc’n Manager, Southwest Airlines Co., *Healthcare Reform Pop Quiz: Test Your Healthcare Reform Knowledge*, June 2010 (emphasis added).

Southwest's documents identify two specific types of cost increases that employers anticipate as a consequence of the law: (1) the cost to provide new government-mandated services; and (2) the inevitable pass-through of PPACA's new taxes and fees.

The Cost of Compelled Services

Documents provided by members of the Council show that these employers are well aware of the cost increases that have been and will be imposed on businesses by PPACA. If the government demands that all employers provide certain services regardless of need, efficiency, or desire, employers will not be able to avoid paying for numerous unnecessary services. Companies have already been absorbing the cost of new requirements, and will be forced into a one-size-fits-all insurance system when the government defines mandated coverage as part of "essential health benefits."¹² This, of course, increases the cost of providing health care. For instance:

- General Electric estimated a \$20 million annual increase in costs due to PPACA's dependent coverage requirements.¹³ In 2011 this same requirement is projected to cost Southwest Airlines \$4.7-9.4 million.¹⁴ American Express, Citigroup, Comcast, NextEra Energy and Xerox all estimated cost increases related to this new dependent coverage.¹⁵
- General Electric estimated cost increases totaling \$5-10 million annually to comply with PPACA provisions removing annual and lifetime limits. PPACA also requires preventative services to be provided at no cost to participants, and while some General Electric plans already comply, in other benefit plans the company estimates "incremental costs of approximately \$5 million annually."¹⁶
- "Provisions in the law will add significant cost and additional administration to NextEra Energy, Inc." NextEra Energy reported that in 2011 PPACA will add an additional 2 percent to the 8.5 percent estimated health care cost trend.¹⁷
- "Healthcare reform is projected to add an additional \$69 [million] in medical costs" for Southwest Airlines.¹⁸

¹² PPACA §§ 1001, 1302.

¹³ Letter from Nancy P. Dorn, Vice President of Corp. Gov't Relations, Gen. Elec. Co., to Energy & Commerce Comm. (Nov. 18, 2011) [hereinafter, "GE Letter"].

¹⁴ Southwest Airlines Co., *National Health Care Reform Initial Executive Briefing*, Apr. 13, 2010, at 6 [hereinafter, "Southwest Presentation"].

¹⁵ American Express Co., *Health Care Reform Overview: Wave One*, Aug. 2010, at 12 (estimating a cost impact of \$1.0-\$1.5 million for 2011) [hereinafter, "American Express Presentation"]; Citigroup, Inc., *Federal Health Care Reform*, at 1 (estimating a cost impact of \$5.0 million) [hereinafter, "Citigroup Presentation"]; Mercer-Comcast Analysis I, *supra* note 9, at 2 (estimating a cost impact of \$1 to \$2 million in 2011); NextEra Energy, Inc. & Fla. Power & Light Co., *Health Care Reform Update*, Apr. 21, 2010, at 10 (estimating a total cost impact of \$2.6 million) [hereinafter, "NextEra Presentation I"]; Mercer Consulting, *Health Care Reform: Key Reform Elements for Xerox Corporation*, May 18, 2010, at 12 (estimating a cost impact of \$3 million) [hereinafter, "Mercer-Xerox Analysis"].

¹⁶ GE Letter, *supra* note 13.

¹⁷ NextEra Energy, Inc., *Medical Cost Update – 2011 and Beyond*, Aug. 16, 2010, at 8-9 [hereinafter, "NextEra Presentation II"].

- Boeing, in an analysis of total health care costs: “Recent health care reform legislation will significantly add to these costs....”¹⁹
- “In the short term, it has burdened UFCW [United Food and Commercial Workers International Union] plans with substantial cost increases. In the long term, it has language that makes it difficult to maintain our current Taft-Hartley structure and participate fully in the benefits of the act.”²⁰

These expected cost increases directly contradict the President’s claims that PPACA would tame the health care cost curve.²¹ Documents produced by members of the Council corroborate long-standing concerns that the health care reform law increases, rather than decreases, costs. In a 2011 presentation provided by Council member Revolution LLC, Aon Hewitt notes that “[w]ithout aggressive action, employer health care costs will increase 60% in the next five years.”²²

In addition to added costs for government mandated services, companies will also experience added costs related to the increased paperwork and bureaucracy created by PPACA. The expansion of dependent coverage, for example, “significantly alter[s] the administrative processes for benefit programs.”²³ DuPont wrote to the Committee that the company will have “to make numerous, costly information system changes to comply with the Act, sometimes with limited lead time.”²⁴

Pass-throughs

Some costs have yet to be passed through to employers and employees. Members of the President’s Council are aware of these eventual future charges:

- General Electric noted that taxes on health insurers, pharmaceutical companies, and medical device manufacturers will “pass-through” and eventually add an estimated \$25 million in costs annually by 2014 when the taxes are fully implemented.²⁵

¹⁸ Southwest Presentation, *supra* note 14, at 5.

¹⁹ Boeing Co., *Healthy Partnership: A Healthy Partnership Fact Sheet*, Sept. 27, 2010, at 2 [hereinafter, “Boeing Fact Sheet”].

²⁰ William T. McDonough, Exec. Vice President & Collective Bargaining Dir., UFCW, *Collective Bargaining Issues Under Health Care Reform*, Presentation to the UFCW Int’l Exec. Bd. & Advisory Comm.Meeting (Feb. 7, 2011), at 2.

²¹ President Barack Obama, Remarks on Health Care Reform (July 17, 2009) (summary available at www.whitehouse.gov/blog/the-president-on-health-care-we-are-going-to-get-this-done).

²² Aon Hewitt Consulting, *New Paths. New Approaches. Aon Hewitt’s Health Care Point of View*, June 24, 2011, at 3 [hereinafter, “Aon Hewitt-Revolution LLC Presentation”].

²³ Buck Consultants, *Health Care Reform Implications for Xerox: Executive Summary*, June 23, 2010, at 1 [hereinafter, “Buck Consultants-Xerox Analysis”].

²⁴ Letter from Pamela J. Murray, Senior Consultant, DuPont & Co., to Fred Upton, Chairman, Energy & Commerce Comm. (Oct. 24, 2011) [hereinafter, “DuPont Letter”].

²⁵ GE Letter, *supra* note 13.

- In a presentation to employees, Boeing made these assessments: “Despite all the efforts, cost increases within the health care industry continue to outpace the savings we achieve. Compounding the problem is the newly enacted U.S. Health Care Reform Act.” Longer term costs are categorized as “potentially severe.”²⁶
- Southwest Airlines and TIAA-CREF also noted that pharmaceutical companies and medical device manufacturers will likely pass along additional costs to private plans and consumers.²⁷
- UBS stated: “[s]hort term costs will rise as a result of pass through expenses (new taxes), small benefit improvements and cost-shifting to commercial plans.”²⁸

These new costs will inevitably lead to further premium increases. As recognized by NextEra Energy, “[p]remiums will also need to increase to partially offset the cost of additional benefits required by health care reform as well as health care cost trend.”²⁹ The Boeing Company noted that while the company felt that PPACA would have some added benefits, such as the elimination of exclusions for pre-existing conditions and the Early Retiree Reinsurance Program, “[t]o address our health care cost challenge, we will need to increase some of the costs that employees and retirees pay.”³⁰ The conclusions reached by the members of his Council directly contradict the President’s own claims. For instance, President Obama has routinely claimed the law would cut premiums, and as a candidate promised a reduction of \$2,500 per family.³¹

Negative Impacts on Seniors’ Coverage

These higher costs are likely to have a disproportionately negative effect on America’s seniors. Several members of the President’s Council noted that cuts to Medicare and Medicare Advantage will lead to cost shifting and the likely elimination of certain plans that employers rely on for retiree coverage:

- American Express stated that PPACA cuts to Medicare Advantage are expected to “lead to significant premium increases for these products, or to benefit cuts and market withdrawals in 2011.”³²

²⁶ Boeing Co., *A Healthy Partnership: Briefing for Employees*, n.d., at 4-5 [hereinafter, “Boeing Presentation”].

²⁷ See Southwest Presentation, *supra* note 14, at 6; see also TIAA-CREF, *Key Provisions of the Health Care Reform Law*.

²⁸ Towers Watson, *UBS: Health Care Reform and Implications for Benefits Strategy*, May 5, 2010, at 3 [hereinafter, “Towers Watson-UBS Presentation”].

²⁹ NextEra Presentation II, *supra* note 17, at 14.

³⁰ Letter from Rick Stephens, Senior Vice President, Human Res. & Admin., Boeing, Co. to Boeing Co. Retirees, at 1-2 (Sept. 7, 2010) [hereinafter, “Boeing Letter”]. A Boeing presentation to its employees reiterates this point: “To address health care cost challenges, Boeing will need to increase some of the costs that employees pay.” Boeing Presentation, *supra* note 26, at 2.

³¹ See Obama, *supra* note 10; see also President Barack Obama, Remarks during CBS News Town Hall (May 12, 2011) (transcript available at www.cbsnews.com/stories/2011/05/12/earlyshow/main20062158.shtml); and see Transcript of Presidential Debate between John McCain and Barack Obama (Oct. 15, 2008), available at <http://latimesblogs.latimes.com/washington/2008/10/debate-transcri.html>.

³² American Express Presentation, *supra* note 15, at 21.

- Southwest Airlines noted that “as Medicare/Medicaid reimbursement rates fall, providers will shift costs on to private plans.”³³ Boeing voiced the same concern: “[I]f there are reductions in funding for Medicare programs as planned, hospitals and doctors may try to shift costs to employer plans to make up for lost revenue.”³⁴
- “Xerox should consider revisiting retiree medical strategy with potential cost increases or elimination of these [Medicare Advantage] plans.” Xerox also stated that “[h]ealth [c]are [r]eform significantly reduced the federal funding associated with these plans, which is likely to result in dramatically higher [Medicare Advantage] premiums starting next year.”³⁵

These anticipated changes directly contradict the promises made by the President and in Administration advertisements touting the positive impact of PPACA on seniors.³⁶

The Mandate

The debate over the constitutionality of PPACA concerns the mandate requiring all Americans to purchase insurance. This mandate will impose an enormous economic cost on some individuals and families. Employees who once opted out of their employer’s health care system are now being forced into that system by PPACA, and both employers and employees must pay PPACA’s mandated costs. Members of the President’s Council are well aware of the mandate’s economic implications:

- Citigroup reported that the mandate will add \$8 million in costs related to additional enrollees.³⁷
- Comcast: “Additional plan costs could range from \$3.6 million to \$48.3 million depending on number of opt-outs who ‘return’ to Comcast plan and tier distribution. An additional \$4.5 million of plan costs are estimated if all part-time employees (< 30 hours/week) enroll in Comcast plan.”³⁸
- TIAA-CREF: “The individual health insurance mandate...may result in some employees who are currently opting out of our medical plans to move back into our medical plans which will increase our costs.”³⁹

³³ Southwest Presentation, *supra* note 14, at 6.

³⁴ *Boeing Takes \$150M Charge Due to New Health Care Law*, BOEING NEWS NOW (Boeing, Co., Chicago, I.L.), March 31, 2010, at 2.

³⁵ Mercer-Xerox Analysis, *supra* note 16, at 15 and Buck Consultants-Xerox Analysis, *supra* note 24, at 1-2.

³⁶ See Obama, *supra* note 31; see also Sarah Kliff, *Health and Human Services Touts Reform With \$3M in Ads*, POLITICO (Oct. 15, 2010), <http://www.politico.com/news/stories/1010/43655.html>.

³⁷ See Citigroup Presentation, *supra* note 15, at 2.

³⁸ Mercer Consulting, *Health Care Reform: Key Reform Elements for Comcast*, Apr. 13, 2010, at 13. [hereinafter, “Mercer-Comcast Analysis II”].

³⁹ Memorandum from Larry Chadwick, Vice President, Gov’t Relations & Pub. Pol’y, TIAA-CREF, to TIAA-CREF EMT (Mar. 30, 2010).

- UBS: “Re-enrollment from individual mandate estimated to be \$4-6M (1.5-2.5% increase in plan cost).”⁴⁰
- Xerox: the individual mandate will have a potential cost impact to Xerox of \$13.3-\$16.2 million.⁴¹

Not only does the mandate force all Americans to purchase a product, but because the system is so heavily reliant on employer-based health coverage, it also forces employers to incur these additional costs as well.

Longer than *War and Peace*, with More to Come

PPACA’s size alone makes understanding the law and applying it difficult for even the largest companies. As one Council member observed, the law is nearly twice as long as Tolstoy’s *War and Peace*.⁴² Adding to the uncertainty, many of the most significant (and potentially costly) aspects of the law are not yet known - they must be developed and established through regulations. These regulations must be proposed, debated, finalized, and finally implemented. The complete process will take several years.

The documents provided by members of the Council clearly show that this lengthy process creates uncertainty:

- American Express: “Throughout: evolving interpretations, proposed regulations, final regulations, technical corrections, preparation for major changes, unpredictability.”⁴³
- Comcast: “Various government agencies are charged with issuing the clarifying regulations, and coordinating those efforts could result in long delays before final guidance is issued.”⁴⁴
- General Electric: “Regulations will dictate the details...multiple agencies involved...some detail in 90 days, years for final regulations.”⁴⁵
- ImpreMedia: “[V]ery little detail with respect to employee benefit plans.”⁴⁶
- Intel: “Given the breadth of the two bills, and the impact to one of the largest segments of our economy, there are many unknowns until the regulations are written and the reforms go into effect—an 8 year process.”⁴⁷

⁴⁰ Towers Watson-UBS Presentation, *supra* note 28, at 10.

⁴¹ Mercer-Xerox Analysis, *supra* note 15, at 20.

⁴² See Flanigan, *supra* note 11.

⁴³ American Express Presentation, *supra* note 15, at 2.

⁴⁴ Mercer-Comcast Analysis II, *supra* note 38, at 1.

⁴⁵ General Electric, *U.S. Healthcare Costs*, Apr. 27, 2010, at 2 [hereinafter, “GE Presentation”].

⁴⁶ Buck Consultants, *Health Care Reform: A First Look – Briefing for ImpreMedia*, May 18, 2010, at 2 [hereinafter, “Buck Consultants-ImpreMedia Analysis”].

- Kodak: “Given the magnitude of the legislation, we are still digesting its provisions and will not have clear guidance on how to interpret them until government regulations are issued, which can take months if not years.”⁴⁸
- NextEra Energy: “The legislation is 2,600 pages of amendment upon amendment... Federal regulations, which will take years to write, will ultimately define its meaning.”⁴⁹
- Xerox: “Various government agencies must develop regulations, and this is likely to be a long and staggered process taking many years.”⁵⁰

The uncertainties created by PPACA are not limited to general complaints about future regulations, but also focus on specific provisions and their effects. Xerox, for example, notes that regulatory clarification is needed to properly define the term “essential health benefits” before the company can determine the cost of the law.⁵¹

“Some companies will terminate their plans and exit.”⁵²

In 2014, when the requirement to provide insurance takes effect, employers will face the choice of either: (1) providing health insurance because of the law or (2) paying a penalty. The documents reviewed by the Committee demonstrate that the penalty actually creates a financial incentive for companies to stop offering health insurance because “[t]he penalty for *paying* [the penalty] is much lower per employee than the average cost of *playing*...”⁵³

Opponents of the law have long argued that PPACA provides incentives for companies to drop coverage. The documents provided by the Council show just how strong those incentives will be:

- One Council member estimated their current annual health benefit cost of \$200 million would be replaced with a ‘penalty’ estimated at less than \$60 million.⁵⁴
- Boeing: “It’s probable that many employers will decide to discontinue offering health plans in the post-health care reform environment.”⁵⁵

⁴⁷ E-mail from Alice B. Borelli, Dir. of Global Health & Workforce Pol’y, Intel Corp., to Intel Corp. Health MRC Members (Apr. 9, 2010, 03:25 PM).

⁴⁸ E-mail from Jan E. Peckham, Benefit Commc’n Manager, Eastman Kodak Co, to Kim M. Chesher, et. als, Eastman Kodak Company (Apr. 12, 2010 05:55 PM).

⁴⁹ NextEra Presentation I, *supra* note 15, at 4.

⁵⁰ Mercer-Xerox Analysis, *supra* note 15, at 2.

⁵¹ *Id.* at 12.

⁵² Mercer Consulting, *Health Care Benefits Strategy: Planning for the Future*, July 2011, at 8 [hereinafter, “Mercer-Comcast Analysis IIP”].

⁵³ American Express Presentation, *supra* note 15, at 29 (emphasis in original).

⁵⁴ Committee staff review of materials provided.

⁵⁵ Boeing Co., *A Healthy Partnership: Questions and Answers on Health Care at Boeing for Employees*, Sept. 21, 2010, at 3 [hereinafter, “Boeing: Healthy Partnership”].

- NextEra Energy: Sending 10,500 full-time non-bargaining employees onto the exchanges would cost only \$21 million, offset by lower medical costs.⁵⁶
- Southwest Airlines: \$414 million to provide healthcare versus \$111 million in penalties.⁵⁷
- Comcast: “Some companies will terminate their plans and exit.”⁵⁸

Some members of the Council that did not perform in-house research on the “pay or play” issue received input/analyses from outside consultants which reached the same conclusion. A presentation by Buck Consultants to impreMedia states: “This penalty for not offering coverage might be so low as to encourage some employers to drop coverage.”⁵⁹

This is not a recent revelation. In the 111th Congress, the Democrat Majority members of the Committee launched an investigation of four companies that had announced that PPACA would increase their costs. This investigation revealed:

- A document from Verizon Communications acknowledging that “[t]o avoid additional costs and regulations, employers may consider exiting the employer health market and send employees to the Exchanges.”⁶⁰
- A document from Caterpillar Inc. noting that the penalty would be \$280 million in comparison to the \$305 million it currently spent on employee health care. An employee stated that the company “would need to give serious consideration to this option.”⁶¹
- A document from Deere and Company stating: “Some are predicting the future state is individual coverage on an after-tax basis without employer coverage.”⁶²
- Based on evidence obtained by the Committee in that investigation, ATT stands to save \$1.8 billion dollars a year if they opted to pay the penalty instead of providing coverage.⁶³

The documents obtained in the 111th Congress clearly confirm that the law creates a financial incentive for employers to drop health coverage. In fact, after receiving these documents from the companies, the Democrat Majority cancelled a scheduled hearing on this issue.

⁵⁶ NextEra Presentation I, *supra* note 15, at 14.

⁵⁷ Southwest Presentation, *supra* note 14, at 7. Southwest notes that “[a]ny savings would likely be short-term” because “[a]s more employers exit the ‘pay’ penalty would increase.”).

⁵⁸ Mercer-Comcast Analysis III, *supra* note 52, at 8.

⁵⁹ Buck Consultants, *Health Care Reform at a Glance*, May 17, 2010, at 1 [provided by ImpreMedia].

⁶⁰ Verizon Commc’n, *Health Care Reform Employer Impact*, Mar. 3, 2010, at 3.

⁶¹ Email from Jerry W. Duggan, Caterpillar, Inc. to Kathryn Himes & Valerie Johnson, Caterpillar, Inc. (Nov. 19, 2009 04:19 PM).

⁶² Deere and Co., *Healthcare Reform Update*, n.d., at 1.

⁶³ Bill Blase, AT&T, *Health Care Bill Legislation*, n.d., at 6.

Companies are, however, considering the effect of dropping coverage on their employees. American Express noted that quality health care will create a healthier and more productive workforce.⁶⁴ Boeing noted that employee health is a “core value” and high quality health plans provide a competitive advantage in attracting a skilled workforce.⁶⁵ Dropping coverage would require many companies to compensate their employees for the value of health care by raising their salaries. While no member of the Council indicated that they were considering dropping their coverage at the current time, the temptation to drop coverage or provide a bare minimum level of coverage remains: “[W]e may achieve significant cost savings, either by choosing to ‘pay’ rather than ‘play’, or to ‘play’ at a lower level.”⁶⁶

Perhaps the most common promise made by PPACA supporters was that if Americans liked their current coverage, they could keep it. President Obama has made this promise repeatedly.⁶⁷ The documents provided by the Council and those received pursuant to the Democratic Majority investigation in the 111th Congress certainly suggest otherwise. In fact, one Council member *has already lost one of its health care plans*. In an email exchange provided by Kleiner Perkins Caufield & Byers, an insurance broker notifies two Kleiner employees that one of their insurers, Guardian, would be withdrawing from the medical market. When asked by a Kleiner employee if “it has to do with the health reform?”, the broker responds: “Guardian said it was because only 2% of their business is medical and they found they just can’t compete with the larger carriers in the medical arena. But we think [h]ealth [c]are [r]eform is a large contributing factor in their decision to withdraw.”⁶⁸

The Committee learned through its investigation that all members of the Council want to maintain a loyal workforce and that providing health care benefits is an important factor in maintaining that workforce. But PPACA raises costs for businesses and gives them incentives to drop their health care plans. If one company drops its health care coverage, competitors may be forced to drop coverage in order to compete.

Conclusion

The internal documents provided by the members of the Council confirm what opponents of PPACA have long claimed: the law will increase costs, make future planning for hiring and expansions difficult due to the uncertainty created by the law, and could ultimately lead to employers dropping health insurance coverage for their employees.

⁶⁴ See American Express Presentation, *supra* note 15, at 29.

⁶⁵ See Boeing: Healthy Partnership, *supra* note 55.

⁶⁶ American Express Presentation, *supra* note 15, at 26.

⁶⁷ See e.g. President Barack Obama, Weekly Address (Aug. 15, 2009) (transcript available at http://www.whitehouse.gov/the_press_office/Weekly-Address-President-Obama-Says-Health-Reform-Will-Put-Patients-Interests-Ahead-of-Insurance-Company-Profits).

⁶⁸ Email from Yiva Smith, Vice President, DH Insurance Services, Inc., to Gloria Hui, Adm’r, Kleiner, Perkins, Caufield & Byers (Jan. 26, 2011 01:23 PM).