

116TH CONGRESS
1ST SESSION

H. R. 4070

To streamline the employer reporting process and strengthen the eligibility verification process for the premium assistance tax credit and cost-sharing subsidy.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Mr. THOMPSON of California (for himself and Mr. SMITH of Nebraska) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To streamline the employer reporting process and strengthen the eligibility verification process for the premium assistance tax credit and cost-sharing subsidy.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commonsense Report-
5 ing Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The Department of the Treasury and the
2 Internal Revenue Service should work together with
3 other relevant departments and agencies to identify
4 and implement methods to minimize compliance bur-
5 dens on businesses, insurance carriers, and individ-
6 uals.

7 (2) Such collaboration should strike an appro-
8 priate balance between sufficient reporting to en-
9 force the law and protecting the privacy of individ-
10 uals.

11 **SEC. 3. VOLUNTARY PROSPECTIVE REPORTING SYSTEM.**

12 (a) IN GENERAL.—Not later than 1 year after the
13 date of the enactment of this Act, the Secretary of the
14 Treasury, in consultation with the Secretary of Health and
15 Human Services, the Secretary of Labor, and the Admin-
16 istrator of the Small Business Administration, shall de-
17 velop and implement guidance providing for a prospective
18 reporting system meeting the requirements of subsection
19 (b). Such system shall be available for use by employers
20 on a voluntary basis beginning not later than January 1,
21 2020.

22 (b) REQUIREMENTS.—The system created under sub-
23 section (a) shall include—

24 (1) voluntary reporting by each participating
25 employer that offers minimum essential coverage to

1 its full-time employees and their dependents under
2 an eligible employer-sponsored plan, not later than
3 45 days before the first day of the annual open en-
4 rollment period under section 1311(c)(6)(B) of the
5 Patient Protection and Affordable Care Act (42
6 U.S.C. 18031(c)(6)(B)) for each calendar year, of—

7 (A) the name and employer identification
8 number for purposes of section 6056 of the In-
9 ternal Revenue Code of 1986 of the employer;

10 (B) a certification of—

11 (i) whether coverage meeting the defi-
12 nition of minimum essential coverage in
13 section 5000A(f) of the Internal Revenue
14 Code of 1986 is offered to the full-time
15 employees (within the meaning of section
16 4980H of such Code) of the employer;

17 (ii) whether such coverage is offered
18 to part-time employees of the employer;

19 (iii) whether such coverage is offered
20 to dependents of employees;

21 (iv) whether such coverage is offered
22 to spouses of employees;

23 (v) whether such coverage meets the
24 minimum value requirement of section
25 36B(c)(2)(C)(ii) of such Code;

1 (vi) whether such coverage satisfies
2 the requirements to qualify for one of the
3 affordability safe harbors promulgated by
4 the Secretary of the Treasury for purposes
5 of section 4980H of such Code; and

6 (vii) whether the employer reasonably
7 expects to be liable for any shared respon-
8 sibility payment under section 4980H of
9 such Code for such year;

10 (C) the months during the prospective re-
11 porting period that such coverage is available to
12 individuals described in clauses (i) through (iv)
13 of subparagraph (B);

14 (D) what waiting periods, if any, apply
15 with respect to such coverage; and

16 (E) a list of all employer identification
17 numbers of the employer for entities that em-
18 ploy employees within the employers control
19 group under subsection (b), (c), (m), or (o) of
20 section 414 of the Internal Revenue Code for
21 1986;

22 (2) processes necessary to ensure that Ex-
23 changes, the Federal Marketplace Data Services
24 Hub, and the Internal Revenue Service can securely
25 and confidentially access the information described

1 in paragraph (1) as necessary to carry out their re-
2 spective missions, and to provide to the Secretary of
3 Health and Human Services additional information
4 relating to eligibility determinations for advance pay-
5 ment of the premium tax credits under section 36B
6 of such Code and the cost-sharing subsidies under
7 section 1402 of the Patient Protection and Afford-
8 able Care Act (42 U.S.C. 18071);

9 (3) a process to allow Exchanges to follow up
10 with employers in order to obtain additional reason-
11 ably necessary information relating to an employee's
12 eligibility for such advance payment or such cost-
13 sharing subsidies, and to allow an employee to re-
14 ceive notification of any problem in verifying such
15 eligibility; and

16 (4) a process to allow employers using the sys-
17 tem to provide timely updates to the Federal Mar-
18 ketplace Data Services Hub regarding any cancella-
19 tion of coverage or significant change in coverage for
20 participating employees that would change the infor-
21 mation reported under paragraph (1).

22 (c) EMPLOYER NOTIFICATION OF EMPLOYEE EN-
23 ROLLMENT IN EXCHANGE PLANS.—Subparagraph (J) of
24 section 1311(d)(4) of the Patient Protection and Afford-
25 able Care Act (42 U.S.C. 18031(d)(4)(J)) is amended by

1 striking “to each employer” and all that follows through
2 “(and the effective date of such cessation); and” and in-
3 serting “to each employer—

4 “(i) the name of each employee of the
5 employer who enrolls in a qualified health
6 plan for a plan year, or whose dependents
7 enroll in such a plan, at the time of such
8 enrollment; or

9 “(ii) the name of each employee of the
10 employer described in subparagraph (I)(ii)
11 who ceases coverage under a qualified
12 health plan during a plan year (and the ef-
13 fective date of such cessation); and”.

14 (d) EXEMPTION FROM REPORTING REQUIREMENT
15 UNDER INTERNAL REVENUE CODE OF 1986.—Section
16 6056 of the Internal Revenue Code of 1986 is amended
17 by redesignating subsection (f) as subsection (g) and by
18 inserting after subsection (e) the following new subsection:

19 “(f) EXEMPTION.—If, through the system created
20 pursuant to section 3(a) of the Commonsense Reporting
21 Act of 2019, an employer provides prospective reporting
22 for any calendar year that meets the requirements of sec-
23 tion 3(b)(1) of such Act—

1 “(1) such employer shall be treated as satis-
2 fying the return requirements of subsections (a) and
3 (b) for such year; and

4 “(2) such employer shall be treated as satis-
5 fying the requirements of subsection (c) for such
6 year if the employer—

7 “(A) furnishes the statement described in
8 such section to those employees of the employer
9 whose names have been provided to the em-
10 ployer by an Exchange under section
11 1311(d)(4)(J)(i) of the Patient Protection and
12 Affordable Care Act regarding enrollment of the
13 employee or a dependent in a qualified health
14 plan (as defined in section 1301 of such Act)
15 through the Exchange; and

16 “(B) furnishes a copy of such statement
17 with respect to such employees to the Sec-
18 retary.”.

19 (e) **THIRD-PARTY FILING.**—An employer may con-
20 tract with a third party to make the report under sub-
21 section (b)(1) without affecting the employer’s treatment
22 as having satisfied the return requirements of subsections
23 (a) and (b) of section 6056 of the Internal Revenue Code
24 of 1986.

1 (f) ACCESS TO THE NATIONAL DIRECTORY OF NEW
2 HIRES.—Subsection (i)(3) of section 453 of the Social Se-
3 curity Act (42 U.S.C. 653) is amended by adding at the
4 end the following new sentence: “The Secretary of the
5 Treasury and the Secretary of Health and Human Serv-
6 ices shall have access to the information in the National
7 Directory of New Hires for purposes of administering sec-
8 tion 36B and 4980H of the Internal Revenue Code of
9 1986 and section 1402 of the Patient Protection and Af-
10 fordable Care Act (42 U.S.C. 18071). Subsection (k)(3)
11 shall not apply to information received for purposes of the
12 administration of such sections 36B and 4980H of such
13 Code and section 1402 of such Act.”.

14 (g) IMPROVING EMPLOYEE ACCESS TO ACCURATE
15 EINS.—Not later than 1 year after the date of the enact-
16 ment of this Act, the Secretary of the Treasury shall de-
17 velop and implement guidance for allowing any employee
18 of an employer to receive, on request, the employer’s em-
19 ployer identification number for purposes of section 6056
20 of the Internal Revenue Code of 1986. Employers shall
21 provide the employer’s employer identification number for
22 purposes of section 6056 of the Internal Revenue Code
23 of 1986 on one of the following documents of the employ-
24 er’s election:

1 (1) Health Insurance Marketplace Coverage
2 Options Notice required under section 18B of the
3 Fair Labor Standards Act.

4 (2) Summary of Benefits and Coverage de-
5 scribed in section 2715 of the Patient Protection
6 and Affordable Care Act (42 U.S.C. 18071).

7 (3) Marketplace Employer Coverage tool.

8 (4) Annual benefits enrollment materials dis-
9 tributed to employees, including through an intranet
10 or an online portal accessible by employees.

11 (5) Employee pay statements or Form W-2.

12 (h) **FUNDING FOR VOLUNTARY PROSPECTIVE RE-**
13 **PORTING SYSTEM.**—It is the sense of Congress that build-
14 ing and maintaining the voluntary prospective reporting
15 system described in this section will require appropriations
16 to the Secretary of the Treasury, the Secretary of Health
17 and Human Services, the Secretary of Labor, and the Ad-
18 ministrator of the Small Business Administration, and
19 that necessary sums to carry out the requirements of this
20 section should be appropriated for such purpose.

21 **SEC. 4. PROTECTION OF DEPENDENT PRIVACY.**

22 (a) **IN GENERAL.**—Paragraph (1) of section 6055(b)
23 of the Internal Revenue Code of 1986 is amended by add-
24 ing at the end the following flush sentence:

1 “For purposes of subparagraph (B)(i), in the case of
2 an individual other than the primary insured, if the health
3 insurance issuer or the employer is unable to collect or
4 maintain information on the TINs of such individuals
5 (other than for purposes of this section), the Secretary
6 may allow the individual’s full name and date of birth to
7 be substituted for the name and TIN. In the event the
8 Secretary allows the use of the individual’s full name and
9 date of birth in lieu of the TIN, the Social Security Ad-
10 ministration shall assist the Internal Revenue Service in
11 providing data matches to determine the TIN associated
12 with the name and date of birth provided by the Internal
13 Revenue Service with respect to such individual.”.

14 (b) **EFFECTIVE DATE.**—The amendment made by
15 this section shall apply to returns the due date for which
16 is after the date that is 60 days after the date of the enact-
17 ment of this Act.

18 **SEC. 5. ELECTRONIC STATEMENTS.**

19 (a) **IN GENERAL.**—Subsection (c) of section 6056 of
20 the Internal Revenue Code of 1986 is amended by adding
21 at the end the following new paragraph:

22 “(3) **ELECTRONIC DELIVERY.**—An individual
23 shall be deemed to have consented to receive the
24 statement under this subsection in electronic form if
25 such individual has affirmatively consented at any

1 prior time, to the person who is the employer of the
2 individual during the calendar year to which the
3 statement relates, to receive such statement in elec-
4 tronic form. The preceding sentence shall not apply
5 if the individual revokes consent in writing with re-
6 spect to the statement under this subsection.”.

7 (b) STATEMENTS RELATING TO HEALTH INSURANCE
8 COVERAGE.—Subsection (c) of section 6055 of the Inter-
9 nal Revenue Code of 1986 is amended by adding at the
10 end the following new paragraph:

11 “(3) ELECTRONIC DELIVERY.—An individual
12 shall be deemed to have consented to receive the
13 statement under this subsection in electronic form if
14 such individual has affirmatively consented at any
15 prior time, to the person required to make such
16 statement (such as the provider of the individual’s
17 health coverage), to receive in electronic form any
18 private health information (such as electronic health
19 records), unless the individual revokes such consent
20 in writing.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to statements the due date for
23 which is after December 31, 2019.

1 **SEC. 6. GAO STUDIES.**

2 (a) STUDY OF FIRST YEARS OF EMPLOYER REPORT-
3 ING.—

4 (1) IN GENERAL.—The Comptroller General of
5 the United States shall conduct a study that evalu-
6 ates, with respect to the period beginning on Janu-
7 ary 1, 2015, and ending on December 31, 2018—

8 (A) the notification of employers by Ex-
9 changes established under title I of the Patient
10 Protection and Affordable Care Act (Public
11 Law 111–148) that a full-time employee of the
12 employer has been determined eligible for ad-
13 vance payment of premium tax credits under
14 section 36B of the Internal Revenue Code of
15 1986 or cost-sharing subsidies under section
16 1402 of such Act (42 U.S.C. 18071), including
17 information regarding—

18 (i) the data elements included in the
19 employer notification;

20 (ii) the process by which the notifica-
21 tion forms were developed and sent to em-
22 ployers, including whether the process pro-
23 vided for a formal notice and comment pe-
24 riod;

25 (iii) whether employers report that
26 such notifications provided sufficient and

1 relevant information for them to make ap-
2 propriate decisions about whether to utilize
3 the appeals process;

4 (iv) the total number of notifications
5 sent to employers and the timeline of when
6 such notifications were sent;

7 (v) differences in the notification proc-
8 ess between the marketplace facilitated by
9 the Federal Government and the State-
10 Based Marketplaces; and

11 (vi) challenges that have arisen in the
12 notification process, and recommendations
13 to address these challenges; and

14 (B) the extent to which the Secretary of
15 Health and Human Services has established a
16 separate appeals process for employers who re-
17 ceived such a notification to challenge the eligi-
18 bility determination, as required by section
19 1411(f)(2) of the Patient Protection and Af-
20 fordable Care Act (42 U.S.C. 18081(f)(2)).

21 (2) REPORT.—Not later than 1 year after the
22 date of the enactment of this Act, the Comptroller
23 General shall submit to the Committees on Finance
24 and Health, Education, Labor, and Pensions of the
25 Senate and the Committees on Ways and Means,

1 Energy and Commerce, and Education and Labor of
2 the House of Representatives a report on the results
3 of the study conducted under paragraph (1).

4 (b) STUDY OF PROSPECTIVE REPORTING SYSTEM.—

5 (1) IN GENERAL.—The Comptroller General of
6 the United States shall conduct a study that evalu-
7 ates, with respect to the period beginning on Janu-
8 ary 1, 2020, and ending on December 31, 2020, the
9 functionality of the prospective reporting system es-
10 tablished pursuant to section 3, including the accu-
11 racy of information collected, the number of employ-
12 ers electing to report under such system, and any
13 challenges that have arisen in implementing such
14 system.

15 (2) REPORT.—Not later than July 1, 2021, the
16 Comptroller General shall submit to the Committees
17 on Finance and Health, Education, Labor, and Pen-
18 sions of the Senate and the Committees on Ways
19 and Means, Energy and Commerce, and Education
20 and Labor of the House of Representatives a report
21 on the results of the study conducted under para-
22 graph (1).

23 **SEC. 7. TAX COMPLIANCE.**

24 (a) IN GENERAL.—Section 6724(d)(1)(B)(xxv) of the
25 Internal Revenue Code of 1986 is amended by inserting

1 “or, in the case of an employer to which section 6056(f)
2 applies, section 3(b)(1) of the Commonsense Reporting
3 Act of 2019” before “, or”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to returns required to be filed after
6 the date of the enactment of this Act.

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