



# *Federal Legislative Priorities* **117<sup>th</sup> Congress: Summer 2022**

NAHU is the leading professional association for health insurance agents, brokers, general agents and consultants. Our members work with individuals, families and employers of all sizes to help them purchase health insurance coverage and use that coverage in the best possible way. We are a dedicated group of health insurance and benefits specialists across the nation who work on behalf of our clients – American health insurance consumers. The professional health insurance agent and broker community looks forward to the potential opportunities of working toward meaningful changes in laws and regulations that will increase stability in health insurance markets and make plans more affordable and accessible. To make the health insurance market more efficient and responsive to American employers and individual consumers, we would like to emphasize the importance of passing the **Commonsense Reporting Act of 2021** ([S. 3673/H.R. 7774](#)).

In light of the recently proposed rule to fix the “family glitch,” it is more important than ever for Congress to pass the Commonsense Reporting Act to ensure that only those individuals who do not have an “affordable” offer of coverage from an employer receive a tax credit. Currently, HHS, IRS and DOL rely on employer data reported after the plan year to reconcile whether an individual appropriately received a subsidy. The IRS then seeks to recoup any access in subsidy that was distributed through an increase in taxes to the individual. This is a long, burdensome and confusing process for consumers and could be avoided with the Commonsense Reporting Act. If employers were to report at the beginning of the plan year what they are offering to employees, their spouses and dependents so that the IRS would know before distributing a subsidy whether the individual has an affordable offer of coverage from an employer.

#### Issues:

- The employer reporting requirements are needlessly burdensome and confusing for employers, consumers, health insurance exchanges and the IRS.
- The current system needlessly exposes employers to threats of tax penalties and additional accounting and legal costs.
- Because Marketplaces do not have employer data on a timely basis, consumers are often confused about their eligibility for premium tax credits, causing some individuals to be required to pay back tax credits they incorrectly received, sometimes years later.
- The current employer reporting system has an 82% error rate, reflecting the difficulties in reporting under the current system.

#### Solution:

The Commonsense Reporting Act enables employers to report employer-sponsored health plan information to the IRS prospectively, before the annual fall open enrollment season in the state and federal exchanges, instead of 14 months after that open enrollment period and an entire coverage year has ended. The bill:

- equips consumers and exchanges with information to determine if individuals are eligible for a tax credit based on their employer’s offer of coverage
- reduces the likelihood that an individual will have to pay back a premium tax credit incorrectly received
- protects employers from having to incur additional accounting and legal costs and business worries, on top of the requirement’s compliance costs, to appeal an IRS Letter 226-J tax penalty notice
- utilizes the current IRS IT reporting system and Exchange Data Hub (thus not requiring additional federal resources)
- provides employers with two compliance choices: prospectively report streamlined information authorized under the Commonsense Reporting Act OR continue to utilize the current end-of-calendar-year reporting process.