Statement before the Committee on Energy and Commerce
Subcommittee on Health

Even If You Like Your Plan, You May Well Lose Your Plan. And Even If You Like Your Doctor, You May Well Lose Your Doctor.

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The Patient Protection and Affordable Care Act (PPACA), commonly referred to as Obamacare, became law on March 23, 2010, after extensive discussion and argument. A central claim made by proponents of this most transformative social engineering project in decades was that it would not just make some better off through redistribution of resources and more stringent regulation, but that its key components would be Pareto improvements, helping some without harming anyone else. This claim was presented to the public by President Obama and many other prominent members of the Democratic party in more colloquial terms such as "If you like your plan, you can keep it. If you like your doctor, you can keep him. Period."[1]

The problem with this claim is that it does not correspond to some fairly obvious features of the empirical reality surrounding us as shaped by Obamacare. I will discuss a few of the more salient consequences of the legislation that undermine its veracity. I will first discuss changes in the individual market for health insurance that have forced people to forfeit the insurance plans and/or doctors they previously had, and then I will focus on the market for employer-provided health insurance, where existing plans will also be canceled and/or changed materially in the near future.

Note that in a certain sense, no one has been able keep his plan, even if he or she liked it. Health insurance policies are no longer allowed to contain limits on lifetime reimbursements, for example. This ban may be a popular one, but it is certainly not a costless one. In this very narrow sense, then, the claim that you could keep your plan is almost completely false. But more central to the public debate today are plans that have incorporated some of these changes, and are still being used and paid for. How will those be affected by upcoming regulatory changes introduced by the PPACA? How many people will be affected by these changes to their current plans?

It has by now become well-known that millions of people who buy insurance on the individual market have received cancellation notices announcing the end of their current plans. Even professor Jonathan Gruber of the Massachusetts Institute of Technology, one of Obamacare's chief architects, has recognized this fact, indicating that as many as 9 million people may end up losing out due to the new regulations imposed on the individual market relating to, among other plan features, minimal essential benefits and community rating requirements.[2] Professor Gruber also claimed that that would be it: that the overwhelming majority of Americans, those who receive health insurance from their employers or the government (see Table 1), would not be affected.

Table 1 shows that the majority of Americans enjoy employer-based health insurance, a total of 170.9 million people.[3] Despite claims to the contrary, many of the plans providing these workers with health insurance will also undergo significant changes, or even disappear. Of these covered workers, 18.3%

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[1] See, among many other sources: Chait, Jonathan, "'If You Like Your Plan, You Can Keep It.' Well, Not Exactly," New York Magazine, October 29, 2013, http://nymag.com/daily/intelligencer/2013/10/you-like-your-plan-you-can-keep-it-sort-of.html.

[2] Lizza, Ryan, "'Obamacare's Three Per Cent," The New Yorker, October 30, 2013, http://www.newyorker.com/online/blogs/newsdesk/2013/10/obamacares-three-per-cent.html.

[3] DeNavas-Walt, Camen, Proctor, Bernadette D., and Jessica C. Smith, "Income, Poverty, and Health Insurance Coverage in the United States: 2012," U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau, Current Population Reports, September 2013."

work for firms with fewer than 50 employees that are not subject to the employer mandate to purchase health insurance (see Table 2). In total, about 35-40 million covered workers work for firms with fewer than 100 employees and receive so-called small-employer plans. The remaining 130-135 million covered workers work for larger employers, many of which self-insure instead of purchasing full insurance plans from insurance companies. All of these plans are potentially affected by Obamacare regulations, in a variety of ways.

The most obvious way in which some of these plans will be affected is similar to what has occurred in the individual market. Many fully insured plans that do not have so-called grandfathered status, because they have changed beyond the minimal limits allowed by Obamacare since 2010, are subject to new requirements regarding benefits and premiums. These plans cover some 25-30 million workers in the small-group market, about 75% of medium-sized firms (100-499 workers), which employ some 20 million workers, as well as about 20% of large firms (over 500 workers), which account for millions more.[4] How large the changes introduced here will be is hard to assess on an aggregate basis, but what we do know is that only about a quarter of small-employer plans and a minority of medium and large-employers plans are shielded from such changes thanks to their grandfathered status (see Table 3, mid-range estimates for 2014). Even fewer of these plans will be protected from cancellation by the time the employer mandate tax is implemented, in 2015 and 2016.

There are other, less direct reasons why workers, even at large firms that self-insure, are likely to see changes in their plans. For example, even at these firms, the cost of plans will increase due to new taxes like the reinsurance fee and the Cadillac tax. In a sense, no one will be able to keep the plan he had in 2010. But even if we accept this promise as a non-literal one implying that plans will not undergo material changes, it is clear that there may well be an order of magnitude more people who will see their plans canceled or changed materially than the administration is now willing to admit.

There is a variety of ways to keep this from happening. One way would be to enact H.R. 3522, the "Employee Health Care Protection Act of 2013," which would give insurance companies that offered plans in 2013 to continue to provide coverage under grandfathered protection. Repealing the employer mandate tax – and, to repair some of the damage done in the individual market, the individual mandate tax – would be an effective repair mechanism as well. Repealing the employer mandate tax would have the added benefit of reducing job lock by decoupling health insurance and employment.

[4] U.S. Department of Health and Human Services "Report to Congress on a Study of the Large-Group Market," March 31, 2011.

Table 1. Coverage Rates by Type of Health Insurance

Coverage Type	2011	2012
Any Private Plan	63.9%	63.9%
Any Private Plan Alone	52.0%	52.0%
Employment-based	55.1%	54.9%
Employment-based Alone	45.1%	44.8%
Direct-purchase	9.8%	9.8%
Direct-purchase Alone	3.6%	3.6%
Any Government Plan	32.2%	32.6%
Any Government Plan Alone	20.4%	20.7%
Medicare	15.2%	15.7%
Medicare Alone	4.9%	5.4%
Medicaid	16.5%	16.4%
Medicaid Alone	11.5%	11.3%
Military Health Care	4.4%	4.4%
Military Health Care Alone	1.3%	1.3%
Uninsured	15.7%	15.4%

From Table 8 in "Income, Poverty, and Health Insurance in the United States: 2012," Census Bureau, September 2013. Rates are for people as of March of the following year.

Table 2. Distribution of Employers, Workers, and Workers Covered by Health Benefits, by Firm Size, 2013

	Employers	Workers	Covered Workers
3-9 Workers	60.8%	8.2%	3.6%
10-24 Workers	24.1%	9.5%	7.8%
25-49 Workers	8.0%	7.3%	6.9%
50-199 Workers	5.6%	13.6%	13.8%
200-999 Workers	1.3%	13.3%	15.2%
1,000-4999 Workers	0.2%	13.0%	15.7%
5,000 or More Workers	0.1%	35.0%	36.8%

Statistics from Exhibit M.2 from the Kaiser Family Foundation's Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2013.

Table 3. Estimates of the Cumulative Percentage of Employer Plans Relinquishing their Grandfathered Status under the ACA

	2011	2012	2013	2014	2015	2016	2017	2018
Low-end estimate								
Small employer plans	20%	36%	49%	59%	67%	74%	79%	83%
Large employer plans	13%	24%	34%	43%	50%	57%	62%	67%
All employer plans	15%	28%	39%	48%	56%	62%	68%	73%
Mid-range estimate								
Small employer plans	30%	51%	66%	76%	83%	88%	92%	94%
Large employer plans	18%	33%	45%	55%	63%	70%	75%	80%
All employer plans	22%	39%	53%	63%	71%	77%	82%	86%
High-end estimate								
Small employer plans	42%	66%	80%	89%	93%	96%	98%	99%
Large employer plans	29%	50%	64%	75%	82%	87%	91%	94%
All employer plans	33%	55%	70%	80%	86%	91%	94%	96%

Estimates and forecasts based on Table 3 in Federal Register Vol. 75, No. 116, Thursday, June 17, 2010 - Rules and Regulations. Small employers are those with 3-99 full-time employees; large employers are those with 100 employees or more.