

Issue BRIEF

April 2003

The Health Insurance Tax Credit in the Trade Adjustment Assistance Reform Act of 2002

The Trade Adjustment Assistance Reform Act (TAARA), which became law last summer, included a significant health insurance tax credit toward the purchase of health coverage by trade-displaced workers and certain retirees.¹ While the number of people who are eligible for the tax credit is relatively small compared to the total number of uninsured people in the country, Congress is likely to look at the TAARA tax credit as a possible model for new programs to help other populations buy health insurance.

This issue brief provides an introduction to the TAARA tax credit. It addresses the following questions:

1. What Is the TAARA Tax Credit?
2. Who Is Eligible for the Tax Credit?
3. Who Is Responsible for Administering the Tax Credit?
4. What Information Is Available about the Tax Credit?
5. What Are the Effective Dates of the Tax Credit?
6. How Will the Advanceable Tax Credit Work?
7. How Do Individuals Qualify for Trade Adjustment Assistance?
8. What Is "Qualified Health Insurance" for the TAARA Tax Credit?
9. What Types of Health Insurance Are Automatically Qualified for the TAARA Tax Credit?
10. What Additional Coverage Can Be Designated as Qualified Coverage by the States and What Consumer Protections Apply?
11. What Funding Is Available for States to Begin Implementing the TAARA Tax Credit?
12. What Is the Role for Health Care Advocates and Health Assistance Programs in Shaping the Tax Credit?

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The Voice for Health Care Consumers

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Health care advocates and health assistance programs have two important roles to play regarding the TAARA tax credit. First, they can help ensure that people who are eligible learn about the tax credit. Second, they can press their states to implement the new program in ways that maximize the number of people who can benefit from the assistance. (See Questions 9 and 11 below for more information.)

While there are workers and retirees who may be eligible for the new tax credit in every state, 11 states will be particularly affected because each is estimated to have at least 10,000 workers and retirees who will be eligible for the tax credit in the first year alone. Those states are Alabama, California, Florida, Georgia, Illinois, New York, North Carolina, Ohio, Pennsylvania, Texas, and Washington.²

1. What Is the TAARA Tax Credit?

The Trade Adjustment Assistance Reform Act of 2002 (TAARA), signed into law on August 8, 2002, offers a tax credit toward the purchase of health insurance coverage for certain workers and retirees whose employer-sponsored health coverage is lost because of increased imports or trade-related relocation.³ TAARA established a tax credit to cover **65 percent** of the cost of health insurance for those eligible for coverage.

The TAARA tax credit may be claimed for the 2002 tax year, or, beginning in August 2003, it can be realized in the form of monthly payments that can be sent directly to the health insurance provider.⁴

The TAARA tax credit is a way to help newly unemployed workers pay premiums for COBRA and other state-based health insurance continuation coverage. However, the statutory language is broad and may allow states to interpret the law in ways that make it difficult for those eligible to get the assistance they need. Consumer health assistance programs and other health care advocates should encourage their states to create group health insurance markets in which eligible people may use their tax credit. (See Question 11.)

2. Who Is Eligible for the Tax Credit?

Three groups of people—and their spouses and dependents—are eligible for the TAARA tax credit:

- a) Trade-Displaced Workers,
- b) Alternative Trade-Displaced Older Workers, and
- c) Pension Benefit Guaranty Corporation (PBGC) Retirees.⁵

Individuals who have “other specified coverage” are not eligible for the TAARA tax credit.⁶ “Other specified coverage” is defined to include: 1) coverage under a spouse’s plan where more than 50 percent of the premium is paid for by the employer; 2) coverage under Medicare, Medicaid, or SCHIP; and 3) coverage under the Federal Employees Health Benefits Plan or the Defense Department health plan.⁷ In addition, individuals cannot collect the tax credit for coverage in any month they are imprisoned under federal, state, or local authority.⁸

a. Trade-Displaced Workers

Workers for employers that are directly affected by increased imports or that shift production to another country, as well as workers for employers that are secondarily affected as suppliers or “downstream producers” of directly affected employers (for example, parts suppliers or assembly plants), may be eligible for the tax credit.⁹ The spouse and dependants of trade-displaced workers are also eligible for the tax credit.¹⁰ Trade-displaced workers qualify for the TAARA tax credit as long as they are eligible for trade assistance cash benefits, which can be for up to **three years** (depending on the type of retraining the beneficiary is undergoing).

b. Alternative Trade-Displaced Older Workers

The TAARA tax credit is also available for Alternative Trade-Displaced Older Workers (Alternative TAA workers).¹¹ To be eligible for Alternative TAA status, an individual must: 1) be at least 50 years old; 2) obtain different, full-time employment within 26 weeks of separation from an employer adversely affected by trade; and 3) move to a job at wages less than the wages earned in the adversely affected employment. The spouse and dependents of Alternative TAA workers are also eligible for the tax credit.¹² This category of eligible workers can receive the tax credit for up to **two years**.

c. Pension Benefit Guaranty Corporation (PBGC) Retirees

Individuals who receive any portion of their pension benefits from the Pension Benefit Guaranty Corporation (PBGC) and who are age 55 or older are eligible for the TAARA tax credit.¹³ They can use the tax credit to purchase coverage until they become eligible for Medicare (at age 65) or “other specified coverage.”¹⁴ Thus, a PBGC eligible tax credit user could receive the tax credit for up to **ten**

years. Their spouses and dependents are also eligible for the tax credit.¹⁵ However, once the PBGC recipient becomes eligible for Medicare or “other specified coverage,” the spouse and dependents are no longer eligible for the tax credit.¹⁶

The PBGC insures traditional pension plans (known as “defined benefit plans”). If a plan is terminated because an employer has financial difficulty and cannot fund the plan, and the plan does not have enough money to pay the promised benefits, the PBGC will assume responsibility for the plan. PBGC pays benefits after the termination up to a certain maximum guaranteed amount. “Defined contribution plans,” such as 401(k) plans, are not insured by the PBGC.¹⁷

3. Who Is Responsible for Administering the Tax Credit?

Three federal agencies are responsible for administering the TAARA tax credit. The Internal Revenue Services (IRS) at the Treasury Department implements the tax code provisions. The Department of Labor (DOL) grants TAA petitions. The Department of Health and Human Services (HHS) certifies the qualified health plans (see Question 7 below).

4. What Information Is Available about the Tax Credit?

The DOL Web site provides helpful materials including several guidance letters, training materials, petition materials, a search tool to track the status of petitions and other information regarding the TAARA health insurance tax credit.¹⁸ The IRS Web site provides information about filing for the refundable tax credit and preliminary information about how the advanceable tax credit will work.¹⁹ The PBGC Web site provides fact sheets and other information about TAARA and the status of PBGC pensions at many companies.²⁰

5. What Are the Effective Dates of the Tax Credit?

The TAARA tax credit provisions are in effect for tax years beginning with 2002.²¹ Prior to August 2003, the tax credit is only available on a refundable basis (that is, it will be received after the filing of the tax payer return with any other tax refund). Beginning on August 1, 2003 the tax credit will be available on an advanceable basis (that is, the dollars can be used to pay for health insurance coverage before a tax return has been filed).²²

6. How Will the Advanceable Tax Credit Work?

In summer 2003, workers and retirees will be encouraged to contact the IRS Health Care Tax Credit (HCTC) Customer Contact Center to verify eligibility for the tax credit. Individuals who have already enrolled in a qualified health plan must provide the HCTC Customer Service Representative with their health plan information. The Customer Service Representative will direct individuals not yet enrolled to health insurance options in their state. Once an individual is enrolled in a qualified health plan, the individual will send 35 percent of the health plan premium to a payment center (not yet designated) each month along with a payment coupon. This payment center will add the remaining 65 percent to the payment and submit the full 100 percent to the individual's health plan each month for as long as the individual is eligible for the program.²³

7. How Do Individuals Qualify for Trade Adjustment Assistance?

In order to be eligible for the TAARA tax credit, one of the following entities must petition for TAA certification: a group of three or more workers, their union, an official of the company where the workers were employed, or one-stop operators or their partners.²⁴ DOL and any State Employment Security Agency have copies of the petition.²⁵ The petition must be sent directly to DOL and the governor of the state where the worker was employed. The governor must provide certain rapid response services to all applicants. The DOL operating instruction says that the agency will conduct an eligibility investigation and issue a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance within 40 days.²⁶

8. What Is "Qualified Health Insurance" for the TAARA Tax Credit?

Only "Qualified Health Insurance" can be purchased using the TAARA tax credit. Tax credit users who do not have the ability to purchase one of the three automatically qualified types of insurance described below *can only use the tax credit if their state has designated a coverage option.*

9. What Types of Health Insurance Are Automatically Qualified for the TAARA Tax Credit?

a. "Coverage under a COBRA continuation provision"²⁷

The federal COBRA (*Consolidated Omnibus Budget Reconciliation Act of 1985*) legislation requires many employers to allow former workers—if the workers are able to pay the full cost of coverage—to remain in the employer's group health plan for a fixed period of time. Workers laid off from firms with 20 or more employees can get 18 months of COBRA coverage. COBRA allows such workers to continue health coverage not merely for themselves but for their family members as well.

Although COBRA continuation benefits provide a potential health lifeline for laid-off workers, the costs of such coverage are usually prohibitive. The laid-off worker must continue to pay the full monthly premium, plus a 2 percent administrative fee. The national average cost of COBRA family coverage is more than \$8,000 a year, and the average cost of COBRA individual coverage is more than \$3000 a year.²⁸

The TAARA tax credit can be used to purchase COBRA continuation of group coverage. For certain eligible trade assistance cash benefits recipients, TAARA extends the eligibility window for electing federal COBRA. Under this provision, if the eligible TAA recipient did not elect COBRA coverage during the regular COBRA election period (60 days from notice), he/she may elect COBRA coverage within the 60-day period that starts on the first day of the month when he/she is determined to have met the definition of an eligible trade assistance recipient.²⁹ However, such election may not be made later than six months after the day he/she lost health insurance coverage as a result of his/her separation from employment that resulted in his/her becoming an eligible trade assistance cash benefits recipient.³⁰ In addition, TAARA waives the *Health Insurance Portability and Accountability Act* (HIPAA) requirement that breaks in coverage not exceed 63 days in order for guaranteed issue and protections from preexisting condition exclusions to apply to COBRA coverage.³¹ Note that under current COBRA law, companies that eliminate their group coverage or are in bankruptcy do not have to offer COBRA continuation coverage.

b. Coverage under a group health plan that is available through the employment of the eligible individual's spouse"³²

This option is only available if the spouse's employer offers coverage to the worker and the employer contributes less than 50 percent of the monthly premiums.³³ Such spousal coverage is problematic as nearly all companies that offer health insurance contribute 50 percent or more to the cost of premiums for covered workers. The average percentage of total premiums that employers paid in 2002 was 73 percent for family coverage.³⁴

c. "Coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30 day period that ends on the date that such individual became separated from the employment which qualified such individual"³⁵

This language helps people who, though they were employed, purchased individual coverage that they can no longer afford when they lose their jobs.

10. What Additional Coverage Can Be Designated as Qualified Coverage by the States and What Consumer Protections Apply?

For tax credit users who cannot purchase any of the three automatically qualified types of coverage described in Question 8, states must act affirmatively to designate a type of coverage that tax credit users can purchase with their TAARA tax credit. The new law provides four consumer protections to certain individuals who use the TAARA tax credit to purchase a state-designated type of coverage. These four consumer protections are: 1) guaranteed issue, 2) no exclusions for pre-existing conditions, 3) nondiscrimination in premiums, and 4) nondiscrimination in benefits.³⁶

TAARA states that the four protections must be extended to individuals who have *three months* of prior creditable coverage without a significant break in coverage *at the time they seek to enroll in the state-based coverage to which the credit applies*.³⁷ Creditable coverage includes group health insurance coverage and most other kinds of health coverage.³⁸ Gaps in coverage shorter than a significant break in coverage (63 days) do not count in determining whether an individual has at least three months of prior creditable coverage.³⁹

States can elect to provide the full set of protections for any individual buying any state-designated TAARA tax credit-eligible health insurance product, regardless of the amount of prior creditable coverage.⁴⁰

Unfortunately, as of early April 2003, it appears that the nondiscrimination language regarding premiums and benefits may be interpreted to allow health risk factor underwriting. The actual statutory language says that the premium or benefits must be the same as those provided to “a similarly situated individual who is not a qualifying individual.”⁴¹ The interpretation suggested by a recent letter from the Administration to Senator Max Baucus (D-MT), ranking minority member of the Senate Finance Committee, only requires that a “health issuer under a state-elected arrangement charge the same premium, and provide the same benefits, to all individuals who have the same health risk factors. . . .”⁴²

For example, if the state-elected arrangement for TAARA tax credit users was an individual market plan, then the plan could deny coverage, charge higher premiums, and/or exclude certain benefits in an offer of coverage to a tax credit user based on current health status, medical history, claims history, genetic information, and other health-related factors—at least to the same extent that the plan does so for other participants. Again, states could choose to strengthen these consumer protections by only designating as qualified those coverage plans that provide better protection from discrimination in premiums and benefits—what insurers call “underwriting” of health insurance policies.

There are six categories of health insurance coverage that can be designated as qualified for tax credit users to purchase. Language in the law makes it clear that Medicaid and SCHIP or any state-operated health plan that received any federal funds cannot qualify as a state designated health insurance coverage plan.⁴³ However, the six categories provide plenty of opportunities for states to give TAARA tax credit users good options for purchasing health insurance coverage.

a. State mini-COBRA coverage or “state-based continuation coverage”⁴⁴

The federal COBRA law only affects companies with 20 or more employees, but 38 states have enacted so-called mini-COBRA coverage for workers in companies with fewer than 20 employees. States can designate these mini-COBRA plans as qualified health insurance for TAARA tax credit users.⁴⁵ However, states are not required to extend their eligibility windows for state-based continuation coverage.

b. "Coverage offered through a qualified state high-risk pool"⁴⁶

States may designate an existing or newly created high-risk pool as an option for TAARA tax credit users. The risk pool must meet the four consumer protections (guaranteed issue, no exclusions for pre-existing conditions, nondiscrimination in premiums, and non-discrimination in benefits).

TAARA authorized and appropriated funds to help states pay for high-risk pools. *However, this funding in TAARA is not in any way directly linked to the TAARA tax credit or any requirement that individuals be allowed to use the tax credit to purchase insurance through the high-risk pool. See the box below for more details about this grant program.*

Funding for State High-Risk Pools

TAARA authorizes and appropriates a total of \$100 million to establish and operate high-risk pools. In fiscal year 2003, \$20 million is available for seed grants of up to \$1 million per state to help in the initial operation and start-up costs to establish a new high-risk pool.⁴⁷ In fiscal year 2003, \$40 million is available in *matching funds* for the operation of established risk pools.⁴⁸ In fiscal year 2004, another \$40 million in *matching funds* is also available.

To be eligible for funds, a state high-risk pool must: 1) have premiums set at no more than 150 percent of the premium for comparable standard risk rates,⁴⁹ 2) offer two or more coverage options, and 3) show that the pool has a mechanism in place to reasonably ensure continued funding for losses and operating expenses after the end of fiscal year 2004.

The \$40 million in matching funds are to be distributed by HHS according to a formula based on the number of uninsured persons in a state. Grants can be for up to 50 percent of the losses incurred by a pool. According to Communicating for Agriculture (an organization monitoring state high-risk pool activity), the total losses for all currently operating state risk pools was over \$377 million for 2001.⁵⁰

c. "Coverage under a health insurance program offered for State employees"⁵¹

A state employee health plan would be a strong option for tax credit users to be able to purchase. Some states may not be willing to expand their state employee pools to include these new populations because they fear that this group is a higher risk

and could raise the cost of insurance for other state employee group members. This may be especially true for states with the large numbers of trade-displaced workers and PBGC retirees (as noted on page one, 11 states are estimated to have more than 10,000 TAARA tax credit eligible residents).

d. "Coverage under a State-based health insurance program that is comparable to the health insurance program offered for State employees"⁵²

If a state offers another type of health insurance program that is similar to the health insurance program offered for state employees, then it can be designated for the tax credit. This type of state employee coverage "shadow plan" has the disadvantage of leaving the TAARA tax credit users in a health insurance pool by themselves. It is likely that this group may be collectively high-risk and thus the premiums for all tax credit users will be higher than if the group could join the state employee health insurance program. However, the premiums for this TAARA tax credit group might be lower than the premiums that would be charged if the tax credit user purchased coverage through a state's high-risk pool.

e. "Coverage through an arrangement entered into by a State" and i) "a group health plan," ii) "an issuer of health insurance coverage," iii) "an administrator," or iv) "an employer"⁵³

This state arrangement provision offers states a lot of flexibility and some positive options to pursue. However, the provision "issuer of health insurance coverage" has been interpreted as allowing states to designate an individual market health insurance plan for tax credit users.⁵⁴

The four consumer protections (guaranteed issue, no pre-existing condition exclusions, nondiscrimination in benefits, and nondiscrimination in premiums) do not automatically extend to plans in this market. Thus, if a state wants to designate an individual health insurance plan as a TAARA tax credit-qualified plan, it is important that the state also extend strong consumer protections to individuals without three months of prior creditable coverage and strengthen the prohibition against discrimination in premiums and benefits to include a prohibition against underwriting for health status-related factors.

f. "Coverage offered through a State arrangement with a private sector health care coverage purchasing pool"⁵⁵

This language is intended to allow the TAARA tax credit to be used in small business purchasing pools. This might be a useful option in a state with a good pool; in most states, this option is very limited.

11. What Funding Is Available for States to Begin Implementing the TAARA Tax Credit?

In addition to the funding for high-risk pools mentioned under Question 9, other funding is available for states to implement the TAARA tax credit. DOL's National Emergency Grant (NEG) program is available to help states provide health coverage to tax credit users. NEG funds are administered by DOL's Employment and Training Administration and help states, localities, and industries harmed by economic dislocations.⁵⁶ As a result of TAARA, the NEG program includes: 1) \$100 million over three years in NEG interim grants that may pay health insurance premiums or help enroll eligible individuals in such coverage and may also finance other assistance; 2) \$280,000 over six years in NEG infrastructure grants that will fund outreach and enrollment activities or health plan infrastructure development that serves tax credit users and others.⁵⁷

12. What Is the Role for Health Care Advocates and Health Assistance Programs in Shaping the Tax Credit?

We encourage advocates to educate likely eligible individuals about the TAARA tax credit and also to work with their states in creating good group health insurance options with strong consumer protections.

Advocates can help provide public education and outreach on this new tax credit. They can work with unions, industry, the state insurance department, and other partners to target potentially eligible individuals and their families and educate them about the tax credit. Articles and columns in local newspapers and presentations before community forums in locations where companies are affected by trade policy would be extremely helpful in spreading the word about the TAARA tax credit.⁵⁸ The Health Assistance Partnership is developing some templates for consumer education materials that may help with this education effort.⁵⁹

Advocates should press their state governments to create group health insurance options in which TAARA tax credit-eligible people may use their tax credit. We recognize that state governments are currently dealing with fiscal crises and may not be interested in taking affirmative steps to designate qualified coverage or establish "arrangements" to provide *group* health insurance options at

this time (see discussion of state options in Question 9, above). A possible scenario is that individual market insurers will step in and ask the states to make them state-elected qualified plans, and as described below, tax credit users in this market may not have important consumer protections that ensure that they receive an offer of coverage at a fair price.

Advocates should also encourage their state to extend the four consumer protections to all TAARA tax credit users, regardless whether they meet the three months' prior creditable coverage federal requirement. As mentioned in Question 9, states can elect to provide the full set of protections for any individual buying any state-designated TAARA tax credit-eligible health insurance product, regardless of the amount of prior creditable coverage.⁶⁰

Conclusion

The TAARA tax credit is a confusing program. The federal government, states, unions, employers, consumer health assistance programs, and health and worker rights advocates all must work together to make sure that people who may be eligible for the TAARA tax credit know about it. Understanding and ensuring the best implementation of the TAARA tax credit is challenging work. At a minimum, the new law provides a first step and an important precedent for a 65 percent tax credit toward purchase of COBRA with the potential to help hundreds of thousands of people. Looking forward, states have the opportunity to experiment and create options that offer real potential to help many more people who are not eligible for COBRA.

Endnotes

¹ The Trade Adjustment Assistance Program (TAA) provides aid to workers who lose their jobs or whose hours of work and wages are reduced as a result of increased imports or an employer's relocation. TAA offers a variety of benefits as well as reemployment services to assist unemployed workers prepare for and obtain new suitable employment. Workers may be eligible for training, job search and relocation allowances; income support and other reemployment services; and a TAARA tax credit. TAA is a federal program originally established under the Trade Act of 1974 and reauthorized with changes by the TAARA.

² See U.S. Department of Health and Human Services, U.S. Department of Labor, Internal Revenue Service, Guidance for Elections of Qualified Health Insurance (February 2003), on file with the authors.

³ Trade Adjustment Assistance Reform Act of 2002, Pub. L. No. 107-210, 116 Stat. 933 (http://wdr.doleta.gov/directives/attach/TEGL11-02_Attach.pdf).

⁴ U.S. Department of Labor, Employment and Training Administration, Training and Employment Guidance Letter No. 11-02 (October 10, 2002), p. 6, available online at (http://wdr.doleta.gov/directives/corr_doc.asp?DOCN=1426).

⁵ 26 U.S.C. § 35(d) (2003). TAARA also created a separate TAA program for farmers. However, this population is not eligible for the tax credit.

⁶ 26 U.S.C. § 35(b)(1)(A)(iii) (2003).⁷ 26 U.S.C. § 35(f) (2003).

⁸ 26 U.S.C. § 35(b)(1)(A)(iv) (2003).

⁹ U.S. Department of Labor, TAA Reform Act Training Presentation (<http://www.doleta.gov/tradeact/wpd/25>).

¹⁰ 26 U.S.C. § 35(d) (2003).

¹¹ These older workers receive cash assistance of up to 50 percent of the wage differential, up to a maximum of \$10,000, during their two-year eligibility period.

¹² 26 U.S.C. § 35(c)(3) (2003).

¹³ 26 U.S.C. § 35(c)(4) (2003).

¹⁴ 26 U.S.C. § 35(b)(1)(A)(iii) (2003), 26 U.S.C. § 35(f) (2003).

¹⁵ 26 U.S.C. § 35(d) (2003).

¹⁶ 26 U.S.C. § 35(b)(1)(A)(iii) (2003), 26 U.S.C. § 35(f) (2003).

¹⁷ For more information see Pension Benefit Guaranty Corporation, frequently asked questions, online at (<http://www.pbgc.gov/benefits.htm>)

¹⁸ General information and links to resources are available at the U.S. Department of Labor, Employment and Training Administration, *Trade Adjustment Assistance Reform Act of 2002* Home Page, online at (http://www.doleta.gov/tradeact/2002act_index.asp). Resources include: 1) *Training and Employment Guidance Letter No. 20-02* (March 3, 2003); 2) *Training and Employment Guidance Letter No. 11-02* (October 10, 2002); 3) the petition in English and Spanish, and 4) a PowerPoint training presentation.

¹⁹ Internal Revenue Service, Health Coverage Tax Credit, available online at (<http://www.irs.gov/individuals/article/0,,id=107825,00.html>).

²⁰ Pension Benefit Guaranty Corporation, *Frequently Asked Questions: Trade Adjustment Act of 2002*, available online at (http://www.pbgc.gov/2002_trade_adjustment_act_FAQ.htm).

²¹ To claim the refundable tax credit, eligible individuals must complete IRS form 88856, which is available online at (<http://www.irs.gov/pub/irs-pdf/f88856.pdf>). Contact the IRS at 1-800-829-1040 for assistance with the form. Information about the advanceable tax credit is also available on the IRS website under Claiming the Health Coverage Tax Credit, available online at (<http://www.irs.gov/individuals/article/0,,id=107905,00.html>).

²² U.S. Department of Labor, Training and Employment Guidance Letter No. 11-02 (October 10, 2002) p. 5, available online at (http://wdr.doleta.gov/directives/corr_doc.asp?DOCN=1426).

²³ Internal Revenue Service, *Claiming the Health Coverage Tax Credit*, available online at (<http://www.irs.gov/individuals/article/0,,id=107905,00.html>).

²⁴ The petition process is the same for directly displaced, secondarily displaced, and alternative workers who are older than 50 years of age. Proposed Application Procedures for States to Access Funding for Trade Health Insurance Assistance National Emergency Grant (NEG), available online at (<http://www.doleta.gov/tradeact/pdf/67FR72222.pdf>). U.S. Department of Labor, Employment and Training Administration, *Training and Employment Guidance Letter No. 11-02* (October 10, 2002) p. 11, available online at (http://wdr.doleta.gov/directives/corr_doc.asp?DOCN=1426).

²⁵ The petition is available online at (<http://www.doleta.gov/tradeact>).

²⁶ U.S. Department of Labor, Employment and Training Administration, *Training and Employment Guidance Letter No. 11-02* (October 10, 2002) p. 5. H.R. 3009, 107th Cong. § 112 (2002), available online at (http://wdr.doleta.gov/directives/corr_doc.asp?DOCN=1426).

²⁷ 26 U.S.C. § 35(e)(1)(A) (2003).

²⁸ The Kaiser Family Foundation and Health Research and Educational Trust, *Employer Health Benefits, 2002 Annual Survey* (Washington: The Kaiser Family Foundation, 2002).

²⁹ 26 U.S.C. § 4980B(f)(5)(C) (2003). See also U.S. Department of Labor, Training and Employment Guidance Letter No. 20-02 (March 3, 2003), available online at (http://www.doleta.gov/tradeact/2002act_index.asp).

³⁰ 26 U.S.C. § 4980B(f)(5)(C) (2003).

³¹ 26 U.S.C. § 4980B(f)(5)(C)(iii) (2003).

³² 26 U.S.C. § 35 (e)(1)(l) (2003).

³³ Definition of eligible coverage month 26 U.S.C. § 35(b) (2003). Definition of specified coverage 26 U.S.C. § 35(f) (2003).

³⁴ The Kaiser Family Foundation and Health Research and Educational Trust, *Employer Health Benefits, 2002 Annual Survey* (Washington: The Kaiser Family Foundation, 2002).

³⁵ 26 U.S.C. § 35(e)(1)(j) (2003).

³⁶ 26 U.S.C. § 35 (e)(2)(A) (2003).

³⁷ 26 U.S.C. § 35 (e)(2)(B) (2003).

³⁸ Creditable coverage is defined in section 701(c) of the Employee Retirement Income Security Act (ERISA) and includes most kinds of health coverage.

³⁹ A significant break in coverage under federal law is a break in coverage of at least 63 consecutive days. However, the length of time that passes before a significant break in coverage is reached may be longer under state law that applies to HMOs and health insurers. See U.S. Department of Health and Human Services, U.S. Department of Labor, Internal Revenue Services, *Guidance for Elections of Qualified Health Insurance* (February 2003) on file with the authors.

⁴⁰ Letter from Secretaries of Treasury, Labor, and Health and Human Services to Senator Max Baucus, on file with the authors.⁴¹ 26 U.S.C. § 35(e)(2)(A)(iv) (2003).

⁴² Letter from Secretaries of Treasury, Labor, and Health and Human Services to Senator Max Baucus, on file with the authors.

⁴³ 26 U.S.C. § 35(e)(1)(H) (2003).

⁴⁴ 26 U.S.C. § 35(e)(1)(B) (2003).

⁴⁵ Kaiser Family Foundation, *State Health Facts Online, State Continuation Coverage for Small Firm Employees* (<http://www.statehealthfacts.kff.org>).

⁴⁶ 26 U.S.C. § 35(e)(1)(C) (2003). More information on high-risk pool grants is available at (<http://www.cms.hhs.gov/riskpool/default.asp>).

⁴⁷ 42 U.S.C. § 300gg-45 (2003).

⁴⁸ For more information on the high-risk pool grants, see (<http://www.cms.hhs.gov/riskpool/default.asp>).

⁴⁹ Note that existing state high-risk pools are generally 125-200 percent of the premium for comparable standard risk rates.

⁵⁰ *Communicating for Agriculture and the Self-Employed, Comprehensive Health Insurance for High-Risk Individuals, Sixteenth Edition, 2002-2003* (Fergus Falls, MN: Communicating for Agriculture, 2002).

⁵¹ 26 U.S.C. § 35(e)(1)(D) (2003).

⁵² 26 U.S.C. § 35(e)(1)(E) (2003).

⁵³ 26 U.S.C. § 35(e)(1)(F) (2003).

⁵⁴ See U.S. Department of Health and Human Services, U.S. Department of Labor, Internal Revenue Service, Guidance for Elections of Qualified Health Insurance (February 2003), on file with the authors.

⁵⁵ 26 U.S.C. § 35(e)(1)(G) (2003).

⁵⁶ Within the National Emergency Grant (NEG) program, there are two grants available to states: 1) System development grants, which cover certain start-up and administrative costs such as eligibility verification; notification to individuals; assistance to individuals in enrolling in qualified health insurance; data management systems; and other ongoing administrative expenses. 2) Health insurance interim assistance grants, which cover subsidies needed until the advanceable tax credit is set up in August 2003. See U.S. Department of Labor, *Training and Employment Guidance Letter No. 20-02* (March 3, 2003), available online at http://www.doleta.gov/tradeact/2002act_index.asp. See also Academy Health State Coverage Initiatives, *The Trade Act of 2002: Coverage Options for States*, Stan Dorn, available online at (<http://www.statecoverage.net/pdf/issuebrief303trade.pdf>).

⁵⁷ *Ibid.* See also U.S. Department of Health and Human Services, U.S. Department of Labor, Internal Revenue Service, Guidance for Elections of Qualified Health Insurance (February 2003), on file with the authors.

⁵⁸ The trade act petitions that have been granted may be searched by state on the U.S. Department of Labor Web site: (<http://www.doleta.gov/tradeact/taa/otaa/asp/otaa.asp>).

⁵⁹ Contact the Health Assistance Partnership for more information about these consumer education materials.

⁶⁰ Letter from Secretaries of Treasury, Labor, and Health and Human Services to Senator Max Baucus, on file with the authors.

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