Health Insurance Premium Credits Under H.R. 3200

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This report describes the premium credits—"affordable premium credits"—to help certain individuals pay for health insurance in H.R. 3200, America's Affordable Health Choices Act of 2009, as ordered reported by three House committees of jurisdiction: Education and Labor (E&L), Ways and Means (W&M), and Energy and Commerce (E&C).

Under H.R. 3200, a "Health Insurance Exchange" would begin operation in 2013 and would offer a choice of private plans alongside a public option and, in the E&C version, potentially a cooperative.[1] The Exchange would not be an insurer; it would provide eligible individuals and small businesses with access to insurers' plans, including the public option, in a comparable way.[2] Individuals would only be eligible to enroll in an Exchange plan if they were not enrolled in other acceptable coverage (for example, from an employer, Medicare and generally Medicaid). Only within the Exchange, credits would be available to limit the amount of money individuals would pay for premiums, based on individuals' income.

Regarding the premium credits, this report describes who is eligible, how the credits are calculated, and how individuals' income is counted for determining credit eligibility. The guideline against which income would be compared to determine credit eligibility is referred to generally as the federal poverty line (FPL). Although the Exchange and the premium credits would not be available until 2013 under H.R. 3200, the illustrations provided in this report are based on current (2009) FPLs, to reflect how the premium credits would compare to families' current income levels—essentially, "if the premium credits in H.R. 3200 were available today."

In terms of calculating the premium credits, the E&L and W&M versions of H.R. 3200 are identical. The E&C version is different because of an amendment that was adopted that increased the percentage of income individuals between 150% and 400% FPL would have to pay toward premiums.[3] Where the House committees' versions of a provision are the same, they are discussed as applying generally under H.R. 3200; where the bills ordered reported differ, the differences are noted.

Individuals' Eligibility for Premium Credits

This section lists all of the requirements an individual must meet in order to obtain premium credits, beginning in 2013.

Enrolled in an Exchange plan

Under H.R. 3200, premium credits are only available to individuals enrolled in a plan offered through the Exchange, including the public option. Individuals would be eligible for Exchange coverage unless they were *enrolled* in any of the following:

[1] For a description of the other private health insurance provisions of H.R. 3200, see CRS Report R40724, *Private Health Insurance Provisions of H.R. 3200*.

[2] In the same way, for example, that Travelocity or Expedia are not airlines, but provide access to available flights and fares in a comparable way.

[3] The text of the accepted amendment is available at the committee's website: http://energycommerce.house.gov/Press_111/20090731/hr3200_ross_2.pdf.

- An employer plan through a full-time employee (including a self-employed person with at least one employee) for which the employer makes an adequate contribution (generally 72.5% of the premium for single coverage and 65% for family coverage).
- Medicare.
- Medicaid (except in certain cases).[4]
- Department of Defense (DOD) medical benefits (including Tricare).
- Veterans Affairs (VA) coverage, with some exceptions.[5]

The Energy and Commerce version allows individuals receiving DOD or VA benefits to also enroll in an Exchange plan.

With some exceptions, individuals would lose eligibility for Exchange coverage once they become *eligible* for Medicare Part A, Medicaid, and other circumstances as the Exchange provides. Besides those cases, once individuals enroll in an Exchange plan, they would continue to be eligible until they are no longer enrolled.

Lawfully Present

To be eligible for the premium credits under H.R. 3200, individuals must be lawfully present in a state in the United States, excluding most nonimmigrants. Nonimmigrants—that is, individuals who are in the United States for a specified period of time and a specific purpose—are "lawfully present," but they are generally ineligible for the premium credits under H.R. 3200. The exceptions for nonimmigrants who could obtain premium credits under H.R. 3200 would be trafficking victims, crime victims, fiancées of U.S. citizens, and those who have had applications for legal permanent residence (LPR) status pending for three years. It is expected that almost all aliens in these excepted nonimmigrant categories will become LPRs (i.e., legal immigrants) and remain in the United States permanently.

In the subtitle of H.R. 3200 pertaining to premium credits, the entirety of Sec. 246 (entitled "No federal payment for undocumented aliens") says, "Nothing in this subtitle shall allow Federal payments for affordability credits on behalf of individuals who are not lawfully present in the United States."

[4] Regarding Medicaid, individuals could still participate in the Exchange if their Medicaid eligibility was related to COBRA continuation coverage, tuberculosis, or breast or cervical cancer. Section 1701 of H.R. 3200, which is beyond the scope of this report, requires states with Medicaid programs to expand coverage to individuals up to 133⅓% of the federal poverty level who are not eligible under current state Medicaid programs. These newly eligible individuals are called "non-traditional Medicaid eligible individuals" in H.R. 3200. A non-traditional Medicaid eligible individual could be Exchange-eligible if the individual was enrolled in a qualified health benefits plan, grandfathered health insurance coverage, or current group health plan during the six months before the individual became a non-traditional Medicaid eligible individual. During the period in which such an individual had chosen to enroll in an Exchange plan, the individual would be ineligible for regular Medicaid.

[5] Individuals receiving VA care could be eligible for an Exchange plan if the Commissioner, in coordination with the Treasury Secretary, determined that the coverage did not meet a level specified by the Commissioner and the VA Secretary, in coordination with the Treasury Secretary.

Individual's Employer Does Not Contribute Toward Exchange Plan

Certain small employers (and in later years, potentially larger employers) could offer coverage through the Exchange, where its employees could select from any of the available plans. The employer mandated contribution levels (for which the small employer may be able to obtain tax credits) for this Exchange coverage would be at least 72.5% for single coverage and 65% of family coverage (prorated for part time employees) of the lowest priced Exchange plans. If an individual was enrolled in the Exchange through an employer who provided at least the required contribution level, the individual would be ineligible for premium credits.[6]

Full-Time Worker's Employer Does Not Offer and Pay for Coverage

Individuals would be ineligible for premium credits if they are full-time employees where the firm offers health insurance *and* makes the required contribution toward that coverage (i.e., at least 72.5% of the lowest premium for single coverage and at least 65% of the lowest premium for family coverage). Such individuals could refuse their employer's coverage in order to obtain Exchange coverage, but they would generally be ineligible for premium credits.[7]

Income Less than 400% of Poverty

To be eligible for a premium credit (beginning in 2013), individuals must have modified adjusted gross income[8] (MAGI) of less than 400% of the federal poverty line (FPL).[9] A later section of this report describes how individuals get less or potentially no premium credit as their income approaches 400% FPL. Using 2009 levels, 400% FPL, the amount at which individuals would no longer be eligible for any premium credit, is shown in the following table.

Generally Ineligible for Medicaid

Although Medicaid is beyond the scope of this report, H.R. 3200 would extend Medicaid coverage to most individuals under 133⅓% FPL. Individuals would generally be ineligible for Exchange coverage if they were eligible for Medicaid, except for the few previously mentioned exceptions. The few Medicaid-eligible individuals permitted in the Exchange could obtain premium credits.

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[6] Exceptions would be made for certain individuals (e.g., divorced or separated individuals). Exceptions would also be made, beginning in 2014, for full-time employees of any income whose premium costs under a group health plan exceed 11% of family income under the E&L and W&M versions, and 12% under the E&C version.

[7] See footnote 6.

[8] For this purpose, MAGI is defined as adjusted gross income (AGI, as used for income tax purposes) without the exclusions for U.S. citizens or residents living abroad, plus tax-exempt interest.

[9] The FPL used for public program eligibility, the Federal Poverty Guideline, varies by family size and by whether the individual resides in the 48 contiguous states and the District of Columbia versus Alaska or Hawaii. See 74 *Federal Register* 4200, January 23, 2009, http://aspe.hhs.gov/poverty/09fedreg.pdf.

Table 1. 400% of the Federal Poverty Line (FPL), 2009

Number of Persons in Family	48 Contiguous States and DC	Alaska	Hawaii
1	$43,320	$54,120	$49,840
2	$58,280	$72,840	$67,040
3	$73,240	$91,560	$84,240
4	$88,200	$110,280	$101,440
5	$103,160	$129,000	$118,640
6	$118,120	$147,720	$135,840
7	$133,080	$166,440	$153,040
8	$148,040	$185,160	$170,240

Source: CRS computation based on "Annual Update of the HHS Poverty Guidelines," 74 *Federal Register* 4200, January 23, 2009, http://aspe.hhs.gov/poverty/09fedreg.pdf.

Notes: Under H.R. 3200, premium credits for eligible Exchange coverage would not be available until 2013; individuals would get less or potentially no premium credit as their income approaches 400% FPL. "DC" is the District of Columbia. The Federal Poverty Guidelines are updated annually for inflation.

"Affordable Premium" Amounts

For individuals eligible for a premium credit, the credit is based on what is considered an "affordable premium amount."[10] The affordable premium amount is based on a percentage of individuals' income relative to the FPL. **Table 2** shows the 2009 annual dollar income that various percentages of FPL represent, up to 400% FPL, where the premium credits end. Although the Exchange and the premium credits would not be available until 2013 under H.R. 3200, the current (2009) FPLs are provided to reflect how the premium credits would compare to families' current income levels.

Premium credits under H.R. 3200 are based on the "affordable premium percentage"—that is, the maximum *percentage* of income that individuals would be required to pay toward the "reference premium," which is the *average* premium of the three lowest-cost Basic Exchange plans in the area.[11] Basic plans are those in one of three cost-sharing tiers established in the Exchange. Basic plans would have the highest enrollee cost-sharing and thus likely the lowest premiums, but individuals eligible for premium credits would also be eligible for cost-sharing credits that would reduce the cost-sharing (deductibles and copayments) that lower-income individuals would face.

The "affordable premium percentage" as specified in the E&L and W&M versions of H.R. 3200 is shown in **Table 3**, with the E&C version in **Table 4**. Between 0% and 150% FPL, the affordable premium percentages are the same; the percentages differ between 150% and 400% FPL. Under the E&C version, individuals with family income between 150% and 400% FPL would be required to pay a larger percentage of their income toward premiums before premium credits were made available.

[10] Sec. 243(b) of H.R. 3200.

[11] Potentially excluding plans with extremely limited enrollment.

Table 2. Annual Income, by Federal Poverty Level and Family Size, 2009

For the 48 contiguous states and the District of Columbia

Federal Poverty Line (FPL)	Family Size			
	1	2	3	4
0%	$0	$0	$0	$0
50%	$5,415	$7,285	$9,155	$11,025
100%	$10,830	$14,570	$18,310	$22,050
133%	$14,404	$19,378	$24,352	$29,327
150%	$16,245	$21,855	$27,465	$33,075
200%	$21,660	$29,140	$36,620	$44,100
250%	$27,075	$36,425	$45,775	$55,125
300%	$32,490	$43,710	$54,930	$66,150
350%	$37,905	$50,995	$64,085	$77,175
400%	$43,320	$58,280	$73,240	$88,200

Source: CRS computation based on "Annual Update of the HHS Poverty Guidelines," 74 *Federal Register* 4200.

The tables also show the annual "affordable premium amount"—the maximum *dollar* amount individuals and families would have to pay toward the reference premium, if the subsidies were available in 2009. Again, the "affordable premium amount" refers to the maximum amount that eligible individuals would pay out of pocket toward the Exchange reference premium. If individuals chose a Basic plan with a premium greater than the reference premium, they would have to pay the difference, in addition to the "affordable premium amount."

Examples of Premium Credit for Single Coverage

For example, assume the three lowest-cost Basic Exchange plans in an area each charge a premium of $4,500 for single coverage (family size of 1) and that premium credits were available in 2009. Under the E&L and W&M versions, individuals at 387% FPL ($41,912, not shown in the table) or higher would have an "affordable premium amount" of more than $4,500 and therefore would not receive *any* premium credit. Using the same assumptions (e.g., $4,500 premium), because the affordable premium percentage is higher under the E&C version for those between 150% FPL and 400% FPL, individuals at 367% FPL ($39,746, not shown in the table) would not receive any premium credit.

Using the same example ($4,500 single-coverage premium) under the E&L and W&M version, an individual at 350% FPL ($37,905 in 2009) would receive a premium credit of $709 (i.e., $4,500 premium minus $3,791 affordable premium amount). Under the E&C version, the individual would receive a premium credit of $330 (i.e., $4,500 premium minus $4,170 affordable premium amount).

Using the same example, under all the approved versions of H.R. 3200, individuals at 100% FPL ($10,830 in 2009) would be required to pay $162 per year toward the $4,500 reference premium and would therefore receive a credit of $4,338.

Table 3. "Affordable Premium Amount" Under the Education & Labor (E&L) and Ways & Means (W&M) Versions of H.R. 3200, If Implemented in 2009

For the 48 contiguous states and the District of Columbia

Federal Poverty Line (FPL)	Affordable Premium Percentage	Affordable Premium Amount, by Family Size			
		1	2	3	4
0%	1.5%	$0	$0	$0	$0
50%	1.5%	$81	$109	$137	$165
100%	1.5%	$162	$219	$275	$331
133%	1.5%	$216	$291	$365	$440
150%	3.0%	$487	$656	$824	$992
200%	5.0%	$1,083	$1,457	$1,831	$2,205
250%	7.0%	$1,895	$2,550	$3,204	$3,859
300%	9.0%	$2,924	$3,934	$4,944	$5,954
350%	10.0%	$3,791	$5,100	$6,409	$7,718
400%	11.0%	$4,765	$6,411	$8,056	$9,702

Source: CRS computation based on "Annual Update of the HHS Poverty Guidelines" and H.R. 3200, which specifies that where the percentages change between the FPLs above, adjustments would be on a linear scale.

Table 4. "Affordable Premium Amount" Under the Energy & Commerce (E&C) Version of H.R. 3200, If Implemented in 2009

For the 48 contiguous states and the District of Columbia

Federal Poverty Line (FPL)	Affordable Premium Percentage	Affordable Premium Amount, by Family Size			
		1	2	3	4
0%	1.5%	$0	$0	$0	$0
50%	1.5%	$81	$109	$137	$165
100%	1.5%	$162	$219	$275	$331
133%	1.5%	$216	$291	$365	$440
150%	3.0%	$487	$656	$824	$992
200%	5.5%	$1,191	$1,603	$2,014	$2,426
250%	8.0%	$2,166	$2,914	$3,662	$4,410
300%	10.0%	$3,249	$4,371	$5,493	$6,615
350%	11.0%	$4,170	$5,609	$7,049	$8,489
400%	12.0%	$5,198	$6,994	$8,789	$10,584

Source: CRS computation based on "Annual Update of the HHS Poverty Guidelines" and H.R. 3200, which specifies that where the percentages change between the FPLs above, adjustments would be on a linear scale.

Example of Premium Credit for a Family of Four

For example, assume the three lowest-cost Basic Exchange plans in an area each charge a premium of $12,000 family coverage and that premium credits were available in 2009. A family of four at 100% FPL ($22,050) would be required to pay no more than $331 per year toward the $12,000 reference premium and would therefore receive a credit of $11,669.

Again the E&L and W&M versions are different from the E&C version for individuals with income between 150% and 400% FPL. Under the E&L and W&M versions, the $12,000 premium exceeds the "affordable premium amount" of approximately $9,700 for a family just below 400% FPL ($88,200); this family would be required to pay approximately $9,700 toward their plan but could receive a premium credit of $2,300 (i.e., $12,000-$9,700). Under the E&C version, a family of four just below 400% FPL would be required to pay $10,500 toward their premium and would therefore receive a credit of approximately $1,500 (i.e., $12,000-$10,500).

Plan Choice and Additional Out-of-Pocket Premium Payments

In 2013 and 2014, individuals obtaining premium credits could use it only for a Basic Exchange plan. If individuals chose a Basic plan with a premium greater than the reference premium, they would have to pay the difference, in addition to the "affordable premium amount." Beginning in 2015, individuals may be able to choose an Enhanced or Premium plan in the Exchange, but would also have to pay any additional premium costs for that coverage as well.

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