



MEMORANDUM

August 31, 2009

To: Honorable Christopher Smith
Attention: Autumn Christensen

From: Bill Heniff Jr., Analyst on Congress and the Legislative Process, 7-8646

Subject: **Availability of Funds in the Public Health Insurance Option Account in Section 222(b)(1) of H.R. 3200**

This memorandum responds to your request regarding the availability of funds in the Public Health Insurance Option Account, as proposed in Section 222(b)(1) of H.R. 3200, as introduced on July 14, 2009. Specifically, you were interested in knowing whether funds in the Account, if enacted, would be made available automatically or would require further appropriations in a subsequent act.

Section 221 of H.R. 3200 requires the Secretary of Health and Human Services to establish and administer a public health insurance option, to be made available through the Health Insurance Exchange (as established under Subtitle A, Title II, of H.R. 3200). In carrying out this requirement, the Secretary is authorized to set premium rates (Section 222(a)), to set payment rates for services and health care providers (Sections 223 and 224), and to make payments for services furnished (Section 225).

Section 222(b)(1) of H.R. 3200 creates in the Treasury an Account "for the receipts and disbursements attributable to the operation of the public health insurance option, including the start-up funding" provided in Section 222(b)(2). Based on the authorities provided to the Secretary, as described in the above paragraph, it appears that the Secretary would be able to credit any premiums to the Account, and make payments from the Account, without any subsequent legislative action, such as a further appropriation in a subsequent act.

In addition, Section 222(b)(2) appropriates to the Secretary \$2 billion for the establishment of the public health insurance option. It also appropriates to the Secretary "such sums as necessary to cover 90 days worth of claims reserves based on projected enrollment," which must be repaid to the Treasury over a 10-year period. Given that these funds would be appropriated directly to the Secretary by this legislation, they also may be obligated and disbursed without any subsequent legislative action.

Please call me if I may be of further assistance in this matter.