

June 7, 2023

Dear Member of Congress,

The undersigned organizations urge you to improve health coverage for the employees of America's small businesses.

Inflationary pressures and regulatory costs continue to threaten small businesses. Price growth has been eating into buying power and driving up costs, and regulations cost small firms \$11,700 per year per employee.<sup>1</sup> Many businesses can no longer bear the skyrocketing cost of health coverage, which now totals more than \$22,000 per family every year, an increase of 288 percent since 2002. Twenty years ago, almost 50 percent of small firms offered health coverage; today, less than one-third do so, primarily due to cost.<sup>2</sup>

Congress must address these challenges head-on with legislation that provides flexibility, regulatory relief, and lower costs.

### **Expanding Coverage Options**

Small businesses are challenged to find relevant health care benefit packages. Only 1 in 5 (17%) small business leaders strongly agree that the employer health care solutions available to them have kept up with the changing times. Congress should fix this by passing laws to expand choices, including:

- **Association Health Plans (AHPs).** The Department of Labor has concluded ERISA rules treat association arrangements as mere collections of individual plans, subjecting employer members to a complex and costly compliance environment where members may be simultaneously subject to large group, small group, and individual market rules. As a result, current AHPs are limited in their effectiveness to allow businesses to pool risk and offer affordable coverage to workers. Congress should pass H.R. 2868, the Association Health Plans Act (AHPA), to empower employers to band together and use their collective strength to negotiate lower premiums and out-of-pocket costs while offering better coverage for their workers at a lower price.
- **Level the Playing Field for Small Business.** Level-funded plans allow employers to design their plans and shop for the best deals. Recognizing the savings and benefits of this model, 36 percent of covered workers at small firms reported enrollment in a level-funded plan in 2022. Unfortunately, some states have started limiting small employers' ability to offer self-funded plans by banning the sale to certain size groups or making the sale of low attachment point plans illegal. H.R. 2813, the Self Insurance Protection Act (SIPA), would correct this by protecting small employers' right to self-fund their plans. This will lower health plan costs and encourage businesses to continue to offer coverage, which is often less expensive and provides more access to doctors, specialists, hospitals, and drugs than government-run programs.
- **Create Certainty Around Individual Coverage HRAs (ICHRAs).** In 2019, the Trump Administration created a new version of Health Reimbursement Arrangements called ICHRAs. These benefits allow employers to provide employees with funds to purchase health insurance on the individual market, including exchanges. Employees may use these funds to pay for premiums and to

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<sup>1</sup> U.S. Chamber of Commerce Foundation, "[Understanding Small Business in America](#)"

<sup>2</sup> Testimony of Joel C. White, Council for Affordable Health Coverage, to the House Education and Workforce Committee, Subcommittee on Health, April 26, 2023. [Available here.](#)

cover out-of-pocket costs. Because the regulation can be changed, we encourage Congress to codify ICHRAs into law, creating certainty for employers who want to help their workers gain coverage.

## Lowering Health Costs

For small businesses, cost is the biggest factor in their ability to provide coverage to employees. According to a recent poll of small business owners by the Small Business Entrepreneurship Council, more than half (55%) of small business leaders cite the high costs of health insurance as a barrier to offering health insurance benefits. Congress can help by:

- **Reforming and Expanding the Existing Small Business Health Care Tax Credit.** The Affordable Care Act created a limited and temporary small business health care tax credit designed to offset premiums by as much as 50 percent. The small business tax credit currently restricts eligibility to firms with average low wages (about \$58,000) and firms with 25 or fewer employees. In addition, the employer can only claim the tax credit for two years. Should a small business qualify under these restrictions, it may be unable to access the credit as coverage must be purchased on the Small Business Health Options Program (SHOP) exchanges that only exist in nine states<sup>3</sup>. These restrictions have resulted in a severe lack of utilization; of the millions of small businesses in the United States, only 6,952 businesses took advantage of this credit in 2016<sup>4</sup>, the last time data was published by the IRS.
- Congress should reform the existing credit and make it available to *all* small businesses in *every* state by eliminating the SHOP exchange requirement. We also urge you to expand the credit to employers with 50 or fewer employees – matching the traditional definition of small group purchaser - for any plan approved for sale in the small group market. In addition, because the cost of coverage is an ongoing expense, the two-year time limit on the credit should be eliminated so the credit is permanent on an annual basis. Finally, the credit is only available to firms that keep wages low. Congress should repeal the wage cap and make all small firms eligible for the credit.

## Cutting Red Tape

Federal and state regulatory requirements create disproportional cost burdens on small businesses, which account for 99.7% of U.S. companies and nearly half of private-sector workers. This costs real time and money and inhibits job creation and economic growth. Small businesses pay on average \$11,700 per year per employee in regulatory costs, and the costs of regulation to smaller businesses with 50 employees or less are nearly 20% higher than they are for the average firm.<sup>5</sup>

- **Reducing Affordable Care Act Reporting Requirements.** The Affordable Care Act requires employers to report health coverage information to the Internal Revenue Service (IRS) and provide statements to covered individuals. Under current law, employers must report annual data related to their health plan to the IRS under tax code Sections 6055 and 6056 during the year-end tax filing season. If an employer is unable to submit IRS forms, they may face serious financial penalties. H.R. 1264 would create a streamlined reporting system to reduce the burden on employers around ACA reporting requirements. The bill would allow reporting to be done prospectively before the beginning of a new coverage year, based on employee coverage during the current plan year. Additionally, such

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<sup>3</sup> <https://www.healthinsurance.org/glossary/shop-exchange/>

<sup>4</sup> IRS office Statistics of Income, <https://www.irs.gov/statistics/soi-tax-stats-affordable-care-act-aca-statistics-credit-for-small-employer-health-insurance-premiums>

<sup>5</sup> <https://www.uschamberfoundation.org/smallbizregs/#:~:text=Small%20businesses%20pay%20on%20average,are%20for%20the%20average%20firm>

an approach would provide compliance relief by allowing participating employers to transmit Form 1095 to employees electronically rather than requiring each form to be printed and mailed. This simple change would lower costs, reduce time and effort, and produce better information and compliance.

We believe Congress should enact these reforms to expand coverage options, reduce red tape and regulatory burdens, and lower costs for all small businesses. The ability of small businesses to offer affordable health plans would help them and the economy grow, create jobs, and expand competition.

Sincerely,

Associated General Contractors of America  
Council for Affordable Health Coverage  
Healthcare Leadership Council  
MLD Foundation  
Main Street Freedom Alliance  
National Association of Wholesaler-Distributors  
National Federation of Independent Business  
Small Business & Entrepreneurship Council  
The Coalition to Protect and Promote Association Health Plans  
U.S. Chamber of Commerce