Association Health Plans

Improving Access to Affordable Quality Health Care for Small Businesses

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Association Health Plans: An Overview

Health Coverage Lags Among Small Businesses

Thirty-nine million Americans lack health insurance. This number has grown by about 8 million over the last decade.

- Among private-sector firms with fewer than 100 employees, health benefits were offered at just 49% of work sites in 2000, compared with 98% among larger firms.

- Considering only low-wage work sites, where at least half of the employees earned less than $9.50 per hour, the disparity between small and large firms is even greater. Benefits were offered at just 34% of small firm low-wage work sites, compared with 95% of large firms.

Small employers, especially those that employ low-wage workers, have difficulty providing health benefits.

- Cost is the biggest issue. For comparable coverage, insurers typically charge small businesses more per employee than large firms.

- In some states, insurance for some small firms is available only through a state-operated risk pool or from one insurance carrier.

- Small firms are often ill equipped to negotiate favorable terms with insurers because an individual firm does not represent a large enough block of business to merit insurers' individual attention.

- States typically require group health insurance policies to cover certain specified benefits, medical procedures, and treatments provided by specified health professionals, which also add to the cost of coverage.

In a voluntary health benefits system, how can small employers be encouraged to offer coverage? The challenge is to create incentives and remove barriers. Preemption of 50 state insurance regulatory regimes under federal ERISA law has allowed large employers and unions to provide cost-effective health benefits. A federal structure for small employers would bring stability, uniformity and lower costs for health care coverage.

- AHPs will provide small businesses the opportunity to band together through trade and professional associations to purchase affordable health benefits. By joining together, small employers will enjoy greater bargaining power, economies of scale, and administrative efficiencies. In this way, AHPs will level the playing field and give participating small employers the same advantages as larger employers and employers who provide benefits through Taft-Hartley plans (plans sponsored jointly by a union and two or more employers).

- AHPs will allow bona fide trade and professional organizations to offer health benefits to their memberships under uniform federal regulation.

- AHPs will help small businesses lower their administrative costs and receive more favorable treatment from insurers. In addition, by operating under federal law, AHPs can avoid the cost of state benefit mandates.

How AHPs Would Work Under House-Passed Legislation

Under new law, AHPs would be certified by the U.S. Department of Labor (DOL) and would have to meet certification standards developed by DOL.

- Only bona fide trade or industry associations that have been in operation for three years or more could sponsor AHPs, helping to ensure that AHPs would not be formed solely to market insurance.

- AHPs would have to meet strict requirements designed to protect participants and maintain solvency.

AHPs could purchase coverage from insurance companies, or if they cover enough participants, they could self-insure (pay claims from their own funds).

- Self-insured AHPs would be subject to solvency requirements designed to ensure that they maintain adequate funds to pay claims. As an added protection for participants, a fund would be set up under DOL direction to ensure that outstanding claims are paid if an AHP becomes insolvent.

The legislation includes numerous provisions designed to prevent AHPs from "cherry picking" the healthiest population of workers.

- A number of provisions would ensure that AHPs draw from a diverse risk pool. Only bona fide associations that are in existence for three years for purposes other than providing health insurance would be eligible to operate an AHP. A self-insured AHP must represent a broad cross-section of trades and businesses or industries. Alternatively, it may represent one or more trades with average or above average health insurance risk or claims experience. AHPs

must offer coverage only to employers and individuals with specified, meaningful connections to the association and must offer all available options to all with such connections.

- The legislation contains important protections to prevent AHPs from cherry picking in the health insurance market. The legislation makes clear that AHPs must comply with the Health Insurance Portability and Accountability Act (HIPAA), prohibiting group health plans from excluding high-risk individuals or employers with high claims experience. AHPs could not charge a participating company more than another on the basis of the health status of the companies' employees or their families, except as allowed under current state law. It would prevent AHPs and participating employers from selectively directing their higher-cost employees to the individual insurance market.

The AHP Advantage

- Some small businesses now provide health coverage through programs sponsored by trade and professional associations. Under current federal law, however, these health programs are considered multiple employer welfare arrangements (MEWAs) and are subject to state insurance laws and regulations.

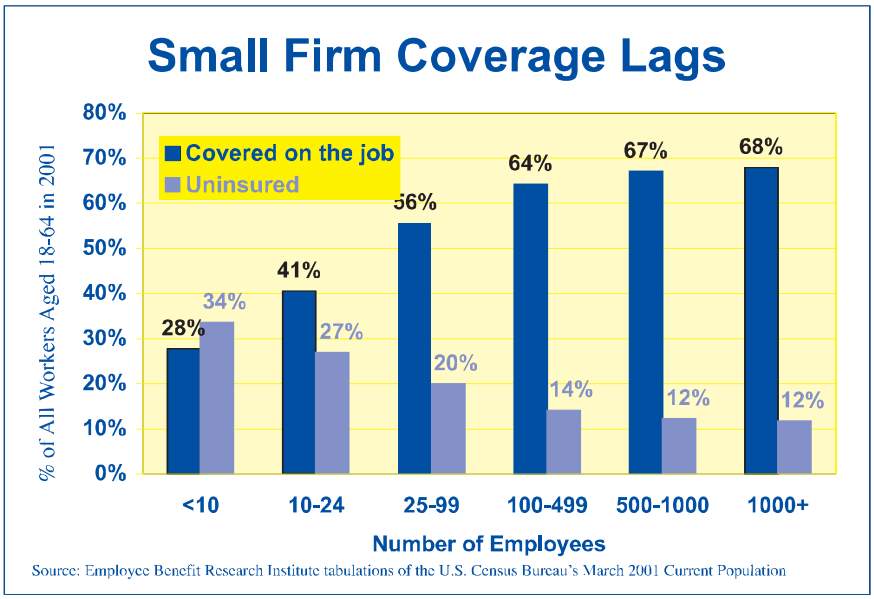
- These programs are hampered by the administrative burdens and high cost of having to comply with the requirements of up to 50 state insurance regulators, including state-mandated benefit requirements.

- Additionally, the legislation includes new protections to avoid the problems associated with abusive and fraudulent MEWAs. Some MEWAs have been used by unscrupulous promoters who sell the promise of inexpensive health insurance, but intentionally default on their obligations - leaving employers and their workforce with unpaid claims and no coverage. AHPs will be subject to rigorous and nationally uniform financial solvency standards, as well as DOL's certification and oversight.

Small Businesses Lack Health Coverage

- Forty-one million Americans have no health insurance.[1] Eighty-five percent are workers and their families.[2]

- The lack of health insurance in America disproportionately affects workers in small businesses. About half of all uninsured Americans are in families headed by workers who are self-employed or who work at firms with fewer than 100 employees.[3] Workers at the smallest firms are far less likely to be covered on the job, and far more likely to be without insurance from any source.



[1]Robert J. Mills, "Health Insurance Coverage: 2001," *Current Population Reports* P60-220, U.S. Bureau of the Census, September 2001.
[2]EBSA estimate
[3]EBSA estimate.

AHPs Will Help Small Businesses And The Uninsured

AHPs will combat uninsurance by making available a wide variety of more affordable insurance options. As a result, more small companies will offer insurance. Companies that offer coverage now may be able to lower employees' premiums so more workers will sign up.

- AHPs will make health insurance more affordable, especially for small business. The Congressional Budget Office (CBO) has estimated that small businesses obtaining insurance through AHPs will enjoy premium reductions of 13% on average.[1] Average savings could range from 9% to as much as 25%.

- Because insurance will be more affordable, more small firms will provide it to their employees and families. According to CBO, an additional 330,000 (and as many as two million) American workers and their families would obtain health insurance through AHPs.[2]

- These predictions may be too conservative. Among 600 small businesses responding to a recent survey,[3] less than one-third currently offer insurance, but about three-fourths said they would be "very" or "somewhat likely" to participate in an AHP that offered lower prices, more choices, or less paperwork.

- One way AHPs will boost coverage is by relieving small businesses from costly state benefit mandates. Such mandates are responsible for one of every five small employer decisions not to offer coverage.[4] Another study reported that mandates raise premiums by 4 to 13%, and that up to one-quarter of uninsured Americans lack insurance because of state mandates.[5]

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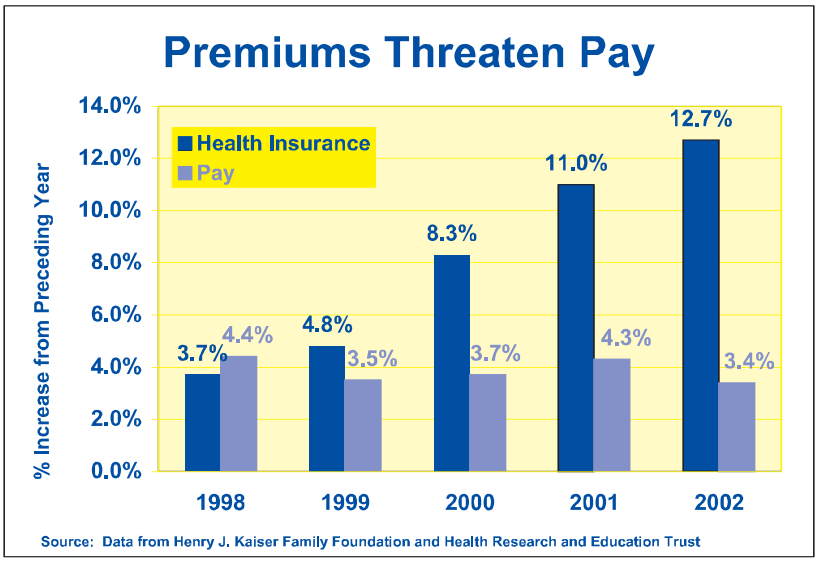
[1] "Increasing Small-Firm Health Insurance Coverage Through Association Health Plans and Healthmarts," CBO, January 2000.
[2] Ibid.
[3] "Affordability in Health Care Survey: Trends in American Micro-Business," a survey conducted for the National Association for the Self-Employed by Research USA, Inc., released June 2002.
[4] Gail A. Jensen and Jon Gabel, "State Mandated Benefits and the Small Firm's Decision to Offer Insurance," *Journal of Regulatory Economics*; 4:379-404 (1992).
[5] Gail A. Jensen and Michael A. Morrisey, *Mandated Benefit Laws and Employer-Sponsored Health Insurance* (Washington, DC: HIAA, 1999).

AHPs Make Room for Better Pay

- In our competitive marketplace, companies must make trade offs between their employees' pay and the increasing cost of health insurance and other benefits. When health insurance costs surge, pay increases tend to suffer.

- Health insurance costs are accelerating and outpace pay growth by a wide margin. The potential for increased pay growth is diminished with rapidly rising health costs. Although pay growth has held steady, it is likely to slow.



- Small companies are especially pinched. Their premiums grow the most quickly, rising 18.1% in 2002 for firms with 10-500 employees.[1]
- Fortunately, AHPs can offer some relief. CBO estimates that AHPs will offer premium reductions of between 9% and 25% on average.[2] That's about $500 to $1,400 per covered employee.[3] Some companies might save enough on their insurance premiums to offset the increase in wages for their lowest-paid employees.

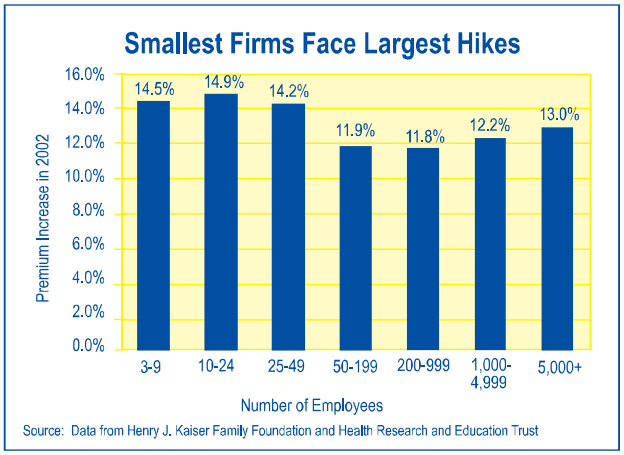
[1] Mercer Human Resources Consulting.

[2] "Increasing Small-Firm Health Insurance Coverage Through Association Health Plans and Healthmarts," CBO, January 2000.

[3] Assumes premiums of $5,646 per employee. Mercer Foster Higgins reports that health benefits cost $5,646 per employee on average in 2001.

AHPs Will Offer Relief from Surging Premiums

- Health insurance costs are hitting companies' bottom lines. The situation is bleakest for the smallest companies, whose costs are highest and rising most quickly. Their premiums increased more than 14% on average in 2001.



- AHPs will make more affordable insurance options available to small businesses. As mentioned, CBO has estimated that small businesses obtaining insurance through AHPs will enjoy premium cuts averaging between 9% and 25%.[1]

- The smallest firms stand to save the most from AHPs. Small company premiums are 20 percent to 30 percent higher than those of large self-insured firms with similar claims per covered employee.[2] They have little buying power and few affordable options – five or fewer insurers control at least three quarters of the small group market in most states.[3] State mandates force small businesses to provide expensive benefits or none at all. AHPs will give small firms administrative savings, more purchasing power, and new, more affordable choices that are exempt from many state mandates.

[1] Increasing Small-Firm Health Insurance Coverage Through Association Health Plans and Healthmarts, CBO, January 2000.
[2] Actuarial Research Corporation.
[3] U.S. General Accounting Office, Private Health Insurance: Small Employers Continue to Face Challenges in Providing Coverage, GAO-02-8; and Private Health Insurance: Number and Market Share of Carriers in the Small Group Health Insurance Market, GAO-02-536R.

AHP Safeguards Will Protect the Families that are Insured

Several requirements in the proposed AHP legislation will help ensure that the employees who are insured--and their families--will receive the health coverage that they and their employers pay for, including:

- **Reserve Requirements:** AHPs would maintain cash reserves for unearned contributions, benefit liabilities (incurred and future), administrative costs, obligations of the plan, and margin of error. In addition to reserves for claims, AHPs must maintain surplus reserves of $500,000 to $2,000,000, depending upon the AHP's size. The reserves provide a cushion against variations in claims experience.

- **Stop-loss Insurance:** AHPs would maintain both aggregate and specific stop-loss insurance coverage, with the levels of insurance determined by a qualified actuary. Stop-loss insurance provides essential protection against unexpectedly high claims that might otherwise exhaust reserves and surplus.

- **Indemnification Insurance:** AHPs would be required to purchase indemnification insurance to pay claims in the event that the AHP becomes insolvent and terminates.

- **Premium Rates:** Self-insured AHPs would establish premium rates that are adequate to cover claims and maintain required reserves, as determined by a qualified actuary. A statement of actuarial opinion must be provided to DOL as part of the certification process.

- **AHP Fund:** Self-insured AHPs would be required to pay assessments to an AHP fund prior to certification and annually thereafter ($5000 and supplemental payments, if needed). If an AHP became unable to satisfy its financial obligations, DOL could assume trusteeship over the AHP and pay premiums to a stop-loss and/or indemnification insurer to ensure that consumers' outstanding claims for health benefits are paid.

Taken together, these financial protections, along with the affirmative duties and prohibitions against conflicts of interest that apply to AHP management, will assure consumers that their claims for benefits will be covered.

Myths and Facts Regarding Association Health Plans

Critics of the AHP legislation argue that AHPs will create the same risks for small employers as fraudulent multiple employer welfare arrangements (MEWAs) and "sham unions" (organizations posing as labor unions in order to preempt state law).

The following facts address the many myths propagated by opponents about AHP legislation.

Myth:

- AHPs will not reduce health insurance costs for small employers.

Facts:

- Insurers selling directly to small employers typically incur administrative costs of 20% to 25%. CBO has estimated that small businesses obtaining insurance through AHPs will enjoy premium savings of 13% on average.[1] Average savings could range from at least 9% to as much as 25%.

Myth:

- AHPs will not significantly reduce the number of uninsured Americans.

Facts:

- The number of working Americans that would gain health coverage through AHPs most likely will increase by 330,000, but could increase by 10,000 to 2 million lives, according to CBO.

- A study by the CONSAD Research Corporation foresaw larger gains.[2] It estimated that up to 8.5 million uninsured workers and dependents could gain coverage from AHP legislation. This study confirms that even small cost savings can result in large increases in purchasing power for small businesses, and thus can have a real impact for small business workers who make up over 60% of the working uninsured.

- CONSAD identified an additional reason, beyond premium reductions, which will enable AHPs to expand access to health coverage for small businesses: "even if there were no price reduction associated with the creation of AHPs...they would result in increases in insurance coverage because they overcome …non-price barriers," such as lack of information among small businesses.

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[1] "Increasing Small-Firm Health Insurance Coverage Through Association Health Plans and Healthmarts," CBO, January 2000.

[2] The Projected Impacts of the Expanded Portability and Health Insurance Coverage Act on Health Insurance Coverage, Pittsburgh: CONSAD Research Corporation, July 10, 1998.

Myth:

- AHPs will engage in "cherry picking," and thus only benefit healthy people.

Facts:

- Only bona fide associations that are in existence for three years for purposes other than providing health insurance would be eligible to sponsor an AHP.

- A self-insured AHP must represent a broad cross-section of trades and businesses or industries. Alternatively it may represent one or more trades with average or above average health insurance risk or claims experience.

- AHPs and participating employers could not selectively direct their higher-cost employees to the individual insurance market.

- AHPs must offer coverage only to employers and individuals with specified, meaningful connections to the association.

- AHPs must offer all available options to all employers and individuals with the same specified, meaningful connections to the association.

- The legislation makes clear that AHPs will have to comply with the Health Insurance Portability and Accountability Act (HIPAA), prohibiting group health plans from excluding high-risk individuals or employers with high claims experience.

- AHPs could not charge a participating company more than another on the basis of the health status of the companies' employees or their families, except as allowed under current state law.

Myth:

- AHP legislation will precipitate fraud and abuse problems like those experienced with MEWA health plans.

Facts:

- Under the legislation, AHPs will be fundamentally different from MEWAs. For example, MEWAs have been operated by a variety of entrepreneurs for the sole purpose of providing health insurance.

- The proposed AHP legislation includes strong solvency standards, including stop-loss and indemnification insurance, and strengthened sanctions, including criminal penalties, for violations of the AHP standards. No such federal consumer protections exist for participants in MEWAs.

- Under the legislation, an AHP would exist only upon a simple but meaningful certification by DOL, eliminating a fundamental problem associated with MEWAs. In the past, an entity providing health coverage to a group of employers might inform the state regulator that it was a group health plan, governed by DOL, effectively holding state regulators at bay. With AHP certification, there will be no confusion over regulatory jurisdiction.

- The DOL regulatory structure for health and welfare plans is effective: ERISA requires the highest standards of conduct for employee benefit plan management.

Myth:

- DOL does not have the resources to regulate AHPs.

Facts:

- If AHP legislation is passed, DOL will allocate the resources necessary to effectively administer the AHP certification and oversight responsibilities, as well as provide effective, efficient and timely AHP regulation.

- DOL has gained valuable experience in recent years in response to the enactment of health legislation that gave DOL more responsibility and oversight over group health plans. For example, DOL has taken on significant new responsibilities as a result of the enactment of the Health Insurance Portability and Accountability Act of 1996, the Mental Health Parity Act of 1996, the Newborns' and Mothers' Health Protection Act of 1996, and the Women's Health and Cancer Rights Act of 1998.

- DOL's capabilities and commitment will ensure the integrity, financial soundness, and oversight of AHPs at the federal level, and will provide meaningful protections and safeguards for employers and plan participants.

- The bill also provides a role for state insurance departments to assist DOL in the regulation of AHPs.

Myth:

- Solvency standards for self-funded AHPs are inadequate and not as strong as similar state laws.

Facts:

- The bill requires 1) claim reserves, 2) stop-loss coverage (both specific and aggregate), 3) indemnification insurance in the event of plan termination, 4) additional surplus capital of up to $2 million, and 5) the establishment of a fund into which AHPs must contribute to cover any unpaid claims.

- These standards are similar or stronger than standards enacted by states for association plans.

- These new solvency standards go far beyond what is required of single employer and labor union plans under current law.

Myth:

- AHPs will drain resources from states because, like corporate and union plans, they will be exempt from state premium taxes.

Facts:

- ❖ AHPs will not drain resources from state governments because the AHP legislation requires AHPs to pay a contribution tax to the states in which they operate that will address the loss in premium taxes.

Myth:

- ❖ AHP legislation will create a "loophole" in federal law that will put consumers at risk because AHPs will be granted the same exemption from state laws already granted to large companies and labor unions.

Facts:

- ❖ AHP legislation includes strong safeguards to protect workers against unpaid claims and imposes solvency standards on AHPs far beyond what is now required of single employer and labor union health plans.

- ❖ AHP legislation simply gives AHPs preemption rights under ERISA that are similar to those already given to corporations and unions.

Support for AHPs is Widespread

AHP legislation is supported by more than 90 organizations representing over 12 million employers and 80 million American workers.

- AHPs are supported by the NFIB, representing 600,000 small and independent business owners. The majority of NFIB's membership (55%) has five employees or less; 72% have less than 10 employees.

- The National Association for the Self-Employed (NASE) completed a recent survey in which 78% of self-employed persons said they would be likely to participate in AHPs if it lowered costs, with 75% saying they would participate if AHPs offered more choices. NASE notes that more than 60% of the uninsured are from families that have someone employed by a small business.

- The American Society of Mechanical Engineers (ASME) notes that their health plan administrator cannot obtain affordable coverage in nine states due to the high cost of mandated benefits. In total, more than 19,000 ASME members have no access to the association's health plan.

Other organizations supporting AHPs include:

- American Association of Engineering Societies
- American Council of Engineering Companies
- American Farm Bureau Federation
- American Hotel and Motel Association
- American Institute of Chemical Engineers
- American Road and Transportation Builders
- American Society of Association Executives
- American Small Business Association
- American Veterinary Medical Association
- Associated Builders and Contractors
- Hispanic Business Roundtable
- Independent Insurance Agents of America
- Independent Office Products & Furniture Dealers Association
- Institute of Electrical and Electronics Engineers
- National Association of Home Builders
- National Association of Manufacturers
- National Association of Wholesaler-Distributors
- National Association of Women Business Owners
- National Automobile Dealers Association
- National Black Chamber of Commerce
- National Council of Agricultural Employers
- National Lumber and Building Material Dealers Association
- National Restaurant Association
- National Retail Federation
- National Roofing Contractors Association
- National Society of Professional Engineers
- North American Equipment Dealers Association
- The Professional Golfers Association of America
- Self-Insurance Institute of America
- Tire Association of North America
- U.S. Chamber of Commerce
- Western Growers Association
- Women Impacting Public Policy