



The Coalition Supporting

Through Association Health Plans

Why Large Insurance Companies Are Wrong About AHPs

Over 75 national and regional organizations support bipartisan legislation to expand affordable health benefits to working families by extending to small businesses similar rules for operating health plans now used by large corporations and labor unions. This legislation is needed now more than ever due to dramatic premium increases, which threaten to add to the nation's 43 million uninsured. By empowering bona fide associations with the tools that large corporations and unions use to make health coverage affordable, small employers will be able to expand benefits, health plan choices, and employer cost-sharing of premiums for working families.

It is revealing that the most visible opposition to AHPs comes from insurance carriers with the greatest amount of monopoly power in small group health insurance markets. A close look at insurer criticisms reveals that they are without merit, and merely serve to deflect attention from the real problem: severely distorted, balkanized markets which result in monopoly power for large insurers at the expense of working families employed in small businesses. In general, insurers have not addressed these facts:

- **Bona fide** trade and professional associations of small employers are every bit as capable of sponsoring health plans under similar rules as large corporations and unions;
- AHPs have already **proven** that they can provide health insurance coverage to small businesses at affordable rates if regulatory barriers are not too great;
- it is **illegal** under HIPAA for group health plans (including AHPs) to exclude sick or high risk individuals, or employers with high claims experience, from the health plan;
- By making coverage affordable for young, healthy people who are now uninsured, AHPs will **strengthen markets** and provide greater cross-subsidies and lower rates for less healthy, high risk individuals;
- Insurer claims of "adverse selection" rest on the **false assumption** that small business workers will settle for inferior benefits compared with those offered by large companies (they will not), and that small employers can compete against large companies for employees in labor markets without offering competitive benefits (they can not);
- It is **fundamentally unfair** for Congress to grant large corporations an advantage over small businesses in offering health benefits.
- Solvency standards for AHPs go **far beyond** what is now required of large company or union health plans, and are at least as tough as state laws for similar plans in most states;

Attached is a detailed analysis of why large insurance monopolies are wrong about AHPs!

The following is a detailed response to a document recently circulated on Capitol Hill entitled “Myths and Facts Regarding Legislation to Exempt Association Health Plans (AHPs) from State Insurance Law,” which severely distorts the facts regarding AHP legislation.

1) Allegation: AHPs will not reduce health insurance costs for small employers.

Response: The allegation that “CBO and academic researchers have concluded that AHPs would not reduce overall costs” is a gross misrepresentation of several of the studies mentioned. This claim is based on three studies. The first study, by CBO, cites the second study (Long and Marquis), as the primary source for its conclusion. However, a fair reading of the Long and Marquis is inconclusive with respect to the cost-saving potential of AHPs. Long and Marquis looked at *all types* of group purchasing arrangements, including those established by state governments, and concluded that all arrangements *considered collectively* have not been effective in making health coverage affordable for small businesses. This study concluded:

Pooled purchasing does have a positive effect on employers’ provision of choice and information, but the effect fell far short of our expectations. This may be because we *combined all of the different forms of pooling....* Our evidence is far from definitive, however.... Clearly, there is a need for more research beyond what this first descriptive study can do (emphasis added).

Given the failure of over-regulated state government pooling mechanisms to expand access to health coverage for small businesses, this finding should not be surprising at all, and it is an argument for AHP legislation. It is also important to note this study looked at *existing* state-based AHPs, which would not have the benefit of operating under the uniform standards provided by federal AHP legislation.

The third study cited, a “paper” by Hall, Wicks and Lawlor, also lumps HealthMarts in with AHPs when it stated that “these proposals ...are not *likely* to produce a significant overall reduction in premiums....” However, this study cites the CBO study as its primary source for this conclusion. So here we have circle of questionable studies citing each other to draw conclusions! Moreover, this study also said that “(e)liminating duplicative state jurisdiction makes sense and *will save costs...*the proposed (AHP) legislation would *reduce but not eliminate the costs* of state regulation...AHPs seek to reduce, simplify, and clarify existing state and federal regulation that in some respects is redundant, ineffective, or obscure...(a) recasting of the law is desirable simply because existing rules are so impenetrably complex that they are at risk of being dysfunctional....” A full reading of this paper provides substantial evidence, which supports the need for AHP legislation.

The only study which looks solely at AHP legislation, by the CONSAD Research Corporation, estimated that between 2.1 and 8.5 million uninsured workers would received coverage if this concept is enacted into law. A more detailed explanation of the CONSAD study and an analysis of the why the CBO study severely underestimates the benefits of AHPs is attached.

2) Allegation: AHPs will not reduce administrative costs for small employers.

Response: AHPs have *already* demonstrated that they can produce substantial savings for small businesses, even with the regulatory barriers, which exist under current law. For example, Associated Builders and Contractors sponsors an AHP with administrative costs of about 13.5 percent, compared with costs of 20 to 30 percent for similar coverage purchased directly from an insurance company. Non-profit AHPs must pass along these savings for the benefit of plan participants. AHP legislation will remove barriers to the efficient operation of existing state-based AHPs, thus expanding the opportunities for small businesses, which cannot afford coverage to obtain access through an AHP.

3) Allegation: AHPs will not significantly reduce the number of uninsured Americans.

Response: Even small cost savings can result in large increases in purchasing power for small businesses, and this can have a real impact for small business workers, who make up over 60 percent of the uninsured. A 1997 survey by the Henry J. Kaiser Family Foundation indicated that “small firms are extremely price sensitive, e.g., a 5 percent decrease in price would result in a 10 to 15 percent increase in the likelihood of purchasing a plan.” Thus, any savings provided by AHPs will be substantial in expanding coverage to uninsured workers.

This is also borne out by a 1998 study of AHP legislation by the CONSAD Research Corporation, which estimated the number of uninsured workers who would gain coverage from AHP legislation at between 2.1 and 8.5 million. The CONSAD study used economic elasticity methodology (-2.0 to -3.0 range), which is supported by “a majority of pertinent studies in the economics literature.” In contrast, the CBO study used a much more limited economic elasticity assumption (-0.6 to -1.8 range).

Furthermore, CONSAD identified an additional reason, beyond premium reductions, which will enable AHPs to expand access to health coverage for small businesses:

Price is obviously an important factor (in determining whether an uninsured person will gain coverage). But small businesses also face impediments to offering insurance that are due to lack of trust between themselves and insurance brokers, incomplete access to information describing available health plans and plan benefits, and a lack of resources to understand and manage the terms of available health plans. (AHPs) will help overcome these barriers to insurance coverage. AHPs will be administered by organizations to which small businesses already belong, and thus have existing relationships and communication links. Thus, *even if there were no price reduction associated with the creation of AHPs...they would result in increases in insurance coverage because they overcome some of these non-price barriers* (emphasis added).

Given the success that some AHPs have already had in providing affordable coverage to small businesses, reducing regulatory barriers and providing new options for small business workers through AHPs can have a significant impact on reducing the number of uninsured Americans.

4) Allegation: AHPs will not help small firms to purchase benefits similar to those offered by Fortune 500 companies at affordable rates.

Response: Small businesses workers that do have health insurance coverage pay roughly 18 percent more for a given benefit than workers in large firms (according to research conducted for the

Healthcare Leadership Council). Under the status quo, small business workers will always pay substantially more for benefits, and many will remain uninsured. However, if given the same tools, which large employers and labor unions use to offer health benefits, AHPs can substantially reduce the cost of health benefits through operating efficiencies. Why should working families be forced to pay 18 percent more for health insurance just because they work for a small business? If the cost of benefits is reduced, small business workers will get more benefits!

5) Allegation: AHPs will not offer benefits that are attractive to employers whose workers have high-cost medical conditions.

Response: The AHP legislation provides small business AHPs with the *same* flexibility in designing health benefit options that large companies and labor union plans now have. Why should workers in small businesses be at a greater disadvantage to their neighbors in corporate or union health plans?

The allegation that AHPs will offer plans that include many of the benefits offered by Fortune 500 companies ignores reality and is fatally flawed. This allegation assumes, wrongly, that small business workers will be content with less attractive benefit packages than that which they could obtain by going to work for a large company. It also assumes, again wrongly, that small employers can compete to attract and retain workers without offering competitive benefit packages. Small business workers want the best benefit packages they can afford, and small employers must compete with large employers in labor markets.

Evidence of these facts are summarized by Wicks et. al.:

...if mandates were lifted, existing evidence is not conclusive about whether small employers would opt to purchase much cheaper benefit packages. Studies have shown that bare-bones plans sell poorly and that self-insured employers, free of benefit mandates, offer many of these benefits because workers desire them.

Today, small group markets are characterized by fewer and fewer benefit option choices for small business workers. The AHP legislation will greatly expand the choices of benefit packages offered to working families.

6) Allegation: AHPs will engage in “cherry picking” and thus only benefit healthy people.

Response: The allegation that AHPs will cherry pick good risks ignores the following facts:

- it is illegal under HIPAA for an group health plans (including AHPs) to exclude sick or high risk individuals, or employers with high claims experience, from the health plan;
- Only bona fide associations, which are in existence for three years for purposes other than providing health insurance, can operate an AHP; this prevents insurance companies from setting up sham associations for the purpose of excluding high risks;
- many young, healthy workers who are uninsured now will choose to obtain coverage if it is affordable, thus providing greater cross-subsidies and lower rates for the sick;

- Small business workers will demand the best benefit package they can afford. Small employers are forced to offer competitive benefit packages by market forces. If AHPs offer unattractive benefit packages, which target only low risk people, they will not survive.

Finally, insurer concerns regarding Sec. 306(d) of H.R. 2990 (106th Congress) may be disregarded because this provision is not included in AHP legislation in the 107th Congress.

7) Allegation: AHP legislation will not prevent fraud and abuse problems like those experienced with MEWA health plans.

Response: AHPs are fundamentally different from MEWAs (which currently operate under state laws). MEWAs include many types of health plans that are not operated by bona fide associations. MEWAs include all plans with more than one employer that operate under ERISA, except some plans established under collectively-bargained relationships. MEWAs include union plans that take in outsiders, plans made up of unrelated groups, and plans of many Fortune 500 corporations, which have subsidiaries, spin-offs and joint ventures. A MEWA can be operated by any organization for the *sole purpose* of providing health insurance to multiple employers.

In contrast, only bona fide trade and professional associations that have been in existence for at least three years for purposes other than offering health benefits can operate AHPs. The AHP legislation provides solvency standards and other consumer protection provisions which go far beyond standards for large company and labor union health plans.

Opponents of AHP legislation are making the de facto argument that bona fide associations, which are created to advance the collective interests of small employers, are less capable of operating a health plan than a corporation or labor union. Organizations like the American Consulting Engineers Council, Associated Builders and Contractors, and Western Growers Association, which have been operated AHPs for decades, clearly dispel this allegation.

8) Allegation: The Labor Department does not have the resources to regulate AHPs.

Response: AHP legislation does not require a new bureaucracy, and as such, is scored as requiring no cost to the federal government by CBO. The AHP bill extends the rules for single-employer and union health plans to those sponsored by bona fide trade associations, plus adds new solvency standards and a certification process for AHPs. AHPs are required to be certified as solvent by a qualified actuary every 90 days in a manner similar to that which governs other ERISA plans. The bill also allows state insurance departments to take over the regulation of AHPs if they so choose.

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

Response: The solvency standards for AHPs are stronger than similar standards enacted by most states for association plans. Moreover, these new solvency standards go way beyond what is required of single employer and labor union plans under current law. The bill requires 1) claim reserves, 2) stop-loss coverage (both specific and aggregate), 3) indemnification insurance in the event of plan termination, and 4) additional surplus capital of between \$500,000 and \$2 million, and 5) the establishment of a new fund into which AHPs must contribute annually to cover any unpaid claims not already covered by the previously listed safeguards.

Solvency standards do not apply to fully-insured AHPs, since these claims are the responsibility of the licensed insurance carrier from whom the AHP purchases coverage for small businesses.

Self-funded AHPs are not insurance companies and therefore should not have the same solvency standards as insurance companies. They much more closely resemble self-funded corporate or labor union plans, which have none of the above listed solvency requirements.

10) Allegation: National associations are not capable of providing their small business members with health plans that are secure without the benefit of state laws.

Response: Insurance companies that make the claim that AHP legislation somehow puts consumers at risk because AHPs are exempted from state consumer protection laws must assume that small businesses cannot be trusted with the same exemption granted to large corporations and labor unions, and that bona fide trade and professionals associations are less capable of operating health plans than labor unions, even with much tougher solvency provisions for small business AHPs. In reality, small businesses and bona fide trade and professional associations care about their employees every bit as much as large corporations. That's why the solvency provisions in AHP legislation go way beyond what is now required of corporate and labor union health plans.

11) Allegation: A federal insolvency fund contained in the AHP legislation for the purpose of backing up any unpaid claims will not help protect consumers.

Response: The allegation that "AHPs are required to contribute only \$5,000" to a special fund established by the bill to cover the potential for unfunded claims (in the unlikely event that all the previously mentioned solvency standards would not prevent such) is highly misleading. In fact, the bill sets the initial annual payment at \$5,000, but also gives the Secretary of Labor the authority to increase this amount if the Secretary deems it necessary (Sec. 806(f)(1)(A)).

12) Allegation: Association health plans do not need an exemption from state insurance laws to exist.

Response: Insurers cite a survey by the American Society of Association Executives as estimating that "more than 750 associations sponsor plans today" to give the impression that AHP legislation is not necessary to allow association plans to exist. However, a spokesperson for ASAE has not been able to confirm the source of this information. The estimate of 750 plans, if accurate, is at least 6 years out of date, and the number is probably less than 200 today. It is a well-known fact that hundreds of associations have closed their health plans over the past few years, primarily due to the difficulty of complying with inconsistent state laws and mandates.

Clearly, having one set of rules, compared to having to comply with 40 or 50 different sets of complex rules and regulations, will produce administrative savings for multi-state AHPs. Proponents of AHPs are gratified to know that the NAIC is "already working on a uniform licensure process that will make it easier for insurers (including AHPs) to operate in multiple states." We expect this to be ready in about a decade.

13) Allegation: AHPs should not be granted the same treatment as large employers under ERISA.

Response: It is incorrect to claim that "this legislation only exempts AHPs from state laws - small employers cannot take advantage of this legislation unless they purchase coverage through an

association.” Apparently the insurance company executives who opposed AHPs haven’t read the bill. In reality, the bill does provide that insurers which provide coverage to fully-insured AHPs are also exempt from state insurance laws in offering the same policies to small employers outside the context of an AHP. See section 812(d)(2)(A) of the bill below:

In any case in which health insurance coverage of any policy type is offered under an association health plan...to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan (emphasis added).

As such, the bill does provide an opportunity for small employers to purchase coverage from insurers with the same exemption from state law that large employers have, *without* going through an association.

14) Allegation: Health insurance companies that oppose this legislation are not concerned with the fact that AHPs would result in more competition in health insurance markets.

Response: It is revealing that the most visible opposition to AHPs comes from insurance companies with the greatest amount of monopoly power in small group health insurance markets. The AHP bill is designed specifically to increase competition among insurance carriers in health insurance markets, which is sorely needed to end dramatic premium increases which jeopardize coverage for millions of working families.

AHP legislation is strongly supported by over 75 national and regional associations and other organizations that represent millions of small business workers. These organizations have made the enactment of AHP legislation a top priority, and they appreciate the strong support President Bush (a former Governor) House Speaker Hastert, and a bipartisan majority of the U.S. House of Representatives for AHP legislation.