

Greater Albuquerque Chamber of Commerce **BOARD POSITION**

*Action: Approved
Date: July 24, 2003*

CHAMBER OPPOSES ASSOCIATION HEALTH PLAN LEGISLATION

Position

The Board of Directors of the Greater Albuquerque Chamber of Commerce concerned with the way in which federal legislative language establishes and structures federally controlled association health plans, opposes passage in the U. S. Senate of S. 545, the “Small Business Health Fairness Act”. The Board believes that the creation of Association Health Plans (AHPs) as set forth in this legislation could well result in 1) increased health insurance premiums for workers in small and large firms, 2) loss of coverage for certain workers with health conditions, 3) an increase in the number of the nations’ uninsured, 4) reduction or elimination of critical premium benefits to the detriment of premium payers and health care providers, 5) removal of regulatory and fiduciary oversight for premium holders and 6) creation of an imbalanced competitive market leading to potential loss of healthcare providers in the state.

The Chamber has long supported efforts to address the high number of uninsured individuals in New Mexico as well as rising health care premium costs. However, we do not believe that federally legislated health plans sponsored by associations, as put forth in this legislation, is the answer. If passed, S. 545 would exempt these plans from state laws enacted to protect patients from adverse selection with a resultant undue burden placed on the country’s health care system. Small businesses would lose protections including solvency requirements, internal-external review policies and the right to appeal a treatment decision. Additionally, the legislation would allow AHPs to “skim” off the healthiest clients from traditional plans leaving high-risk individuals in traditional plans with a resultant increase in premiums for those in plans under state regulation.

Another concern is the burden that would be placed on healthcare providers both hospitals and physicians as a result of the ability of AHPs to offer leaner benefit packages. In a most basic example, a pregnant employee or spouse whose benefit package did not include maternity coverage must still be provided health care by a physician and delivery by a

Greater Albuquerque Chamber of Commerce **BOARD POSITION**

hospital, even if unable to meet the financial obligation of such service. Hospitals would be forced to absorb these costs as they currently do for emergency room use and would by necessity need to pass on these costs to traditional premium holders. Physicians unable to pass on these costs would view this as an additional problem to the already significant financial burdens they assume as a result of practicing medicine in New Mexico. Additionally, individuals with limited benefit packages may not seek appropriate medical care early in their disease process resulting in increased costs to the system at a later date.

Finally, we note that the ability to provide coverage that is not regulated by the state or subject to state benefit mandates would create an unfair advantage for AHPs over traditional insurance providers. Traditional insurance providers unable to bear the sole burden of insuring largely only high risk individuals may well be forced to leave the state limiting competition and availability in New Mexico. Coupled with the increased burdens on physicians in a state facing significant physician shortages in rural communities and specialist shortage in metropolitan areas, it is imperative that we do not create additional burdens in this area.

The Board is concerned that while the intent of the federal legislation is to make health care more affordable for small businesses, it would actually have a negative impact on small businesses, the health care provider industry and the state as a whole by adding unnecessary financial burdens to the system. Cost shifting, premiums and litigation would increase while protections, benefits, providers and the number of insured would decrease.

The Chamber urges both the federal government and the state legislature to consider other avenues to address the growing number of uninsured and rising health care costs. Implementation of Well Plan, state limitation of benefits, federal and state tax credits for small businesses that provide coverage and availability of optional health care plans including state approved association health plans that can be offered by or through all insurers in the state would better serve this issue.

Background

In an effort to address the large and growing number of uninsured in the United States, Congress has for several years introduced legislation to create association health plans (AHPs) as a means to facilitate the sale of health insurance coverage to employees of small firms. This legislation has passed the House of Representatives three times but failed in the Senate on two occasions. Currently, S. 545, the “Small Business Health Fairness Act of 2003” is before the Senate having been referred to the Senate Health, Education, Labor and

Greater Albuquerque Chamber of Commerce **BOARD POSITION**

Pensions Committee. The bill, identical to H.R. 660 which passed the House in June, is not expected to be heard before this Fall and may be postponed until later in the session. S. 545 would establish federally certified AHPs to offer health plans to participating employers. AHPs are a form of group purchasing similar to that already allowed in many states under state law. AHPs would be exempt from state benefit mandates and from consumer protection laws including insurance solvency rating requirements, and the right to appeal a treatment decision. They could be offered by trade, industry or professional associations that have been in existence for at least three years for purposes other than the provision of health care insurance. AHPs would have to offer their insurance products to all member firms. Oversight would shift from state insurance regulators to the U. S. Department of Labor.

The Congressional Budget Office (CBO) in a report on increasing small-firm health insurance coverage through association health plans dated January of 2000 and referenced by both opponents and proponents of the legislation indicates that while the primary source of private health insurance coverage in the United States is employment, most uninsured people are members of families with at least one full-time worker. Uninsured workers are usually employees of small firms (those with fewer than 50 employees) and small firms typically face higher costs for health insurance which serves as a factor in small firms being less likely to offer coverage. Additionally, there are lower take-up rates when insurance is offered. Concerns about affordability persist despite the fact that some one-third of small firms currently purchase health insurance through existing private, state and local government purchasing cooperatives. It is believed that costs can be further contained through the creation of federally certified AHPs which would be exempt from state insurance regulations and state mandated benefits which tend to increase premiums for traditional plans.

The CBO notes that there is little direct evidence about the effect of cooperatives on premiums with several extensive studies noting that premiums for cooperatives tend to be the same as for traditional plans. However, the CBO states that freedom from state regulation and benefit mandates would lower costs, but only for those healthy firms (with lower-than-average expected health care costs). If firms with healthier-than-average employees switched from traditional insurance to AHPs, premiums for traditional policies would rise. Additionally, that selection effect could be exacerbated by federal requirements enacted in 1996 regarding portability of insurance coverage which limits exclusions for preexisting conditions when purchasers switch from one policy to another. For example, a firm with healthy employees might purchase a relatively inexpensive policy in the AHP market and then switch back to a traditional plan if an employee subsequently develops a serious health condition.

Greater Albuquerque Chamber of Commerce **BOARD POSITION**

The CBO further notes that under the assumptions of their economic model, the introduction of AHPs would only increase net coverage through small firms by about 1.3% or 330,000 employees and dependents nationwide. Overall, it is estimated that some 4.6 million people would become insured through AHPs with most of those individuals switching from the fully regulated market to the new plans. On average, premiums paid by some firms that participate in AHPs would be about 13% lower with five percentage points of that reduction coming from the benefit mandate exemption and eight percentage points coming from the expected health costs of firms in the AHP market that are lower than average and that allow participating firms to avoid some of the premium-boosting effects of rate compression laws. The CBO projects that the introduction of AHPs would have only slight effects in terms of lowering the number of uninsured nationwide. Additionally, the report notes that among the states, AHPs would probably be uneven because states differ in the extent and intensity of their regulations. States that have imposed relatively strict premium compression rules where most cross-subsidization occurs would be likely to attract more of these plans.

Finally, the CBO report states that policymakers must address issues of regulatory authority and solvency standards. States would have minimal authority over AHPs and would need to rely on the U. S. Department of Labor to oversee these plans. How great a role the federal government would play depends, in part, according to the report on the resources that the federal oversight agency devotes to that function.

This issue has divided chambers of commerce throughout the country. The U. S. Chamber of Commerce strongly supports passage of this legislation and has actively advocated on its behalf having sent a letter of support to members of the U. S. House of Representatives co-signed by 147 small and large chambers from 36 states. The arguments in favor of passage of the legislation include: 1) expansion of availability of health coverage for employees of small businesses, 2) reduction in premium costs for small businesses through greater bargaining power, economies of scale, administrative efficiencies, and the benefits of a uniform regulatory structure, 3) belief that discrimination based on health status is prohibited and 4) that solvency standards, plan requirements and patient protections are more stringent than currently required by some states.

Nationwide, chambers both large and small in opposition to the legislation are equally united in a coalition effort to ensure that S. 545 does not pass. The arguments against passage include: 1) AHPs will increase insurance premiums for 80% of workers in small firms, 2) some 100,000 of the sickest workers will lose their coverage altogether, 3) premiums will increase 23% for many small businesses that must remain in state-regulated markets with a resultant loss of coverage for some 1 million individuals, 4) AHP pricing advantage results

Greater Albuquerque Chamber of Commerce **BOARD POSITION**

from ability to select risks leaving only younger, healthier companies able to participate with no protection against levying excessive rates to prevent others from joining and 5) that most local chambers will be unable to compete as or with AHPs.

In New Mexico, a large and diverse number of organizations and individuals have opposed the legislation including but not limited to the American Diabetes Association, New Mexico Pediatric Society, Blue Cross Blue Shield New Mexico, Mental Health Association, Governor Richardson, both Secretary of Human Services Pam Hyde and former Secretary of Human Services Bill Johnson, New Mexico Hospitals and Health Systems Association, New Mexico Association of Health Plans, American Cancer Society, Health Action New Mexico, AFSCME, Lovelace Health Systems, AFL, New Mexico Insurance Commission, New Mexico Nurses Association and Delta Dental among numerous others.

