



## **NAHU'S HEALTHY ACCESS PLAN**

### **AFFORDABLE AND RESPONSIBLE HEALTH CARE REFORM**

The members of the National Association of Health Underwriters (NAHU) believe all Americans deserve a health care system that delivers both world-class medical care and financial security. Americans deserve a system that is responsible, accessible and affordable. This system should boost the health of our people and of our country's economy. Americans also deserve a system that is realistic.

As Americans and insurance professionals, NAHU members believe the United States already has the best health care system in the world, meeting the needs of most Americans. We should build on the strengths of the current system and guarantee access to coverage for all Americans.

NAHU is the leading professional trade association for health insurance agents and brokers, representing more than 20,000 health insurance producers and employee benefit specialists nationally. Our members service the health insurance policies of millions of Americans and work on a daily basis to help individuals and employers purchase health insurance coverage.

As the individuals on the front lines marketing health insurance products to families and businesses large and small, NAHU members occupy a unique place in the health care coverage system. We see firsthand what's working and what's not. We educate consumers on their health care coverage choices, help them select the most appropriate plans for their specific needs, and serve as their advocate if problems arise. We are acutely aware of the need for more affordable private health insurance options, and we are absolutely committed to reducing the number of uninsured Americans through private-market solutions.

NAHU members realize there is no one solution to the problem of the uninsured or to the greater underlying problem of constraining the cost of medical care. We also know universal access to health insurance will not be achievable unless coverage is affordable.

NAHU applauds government leaders and others who have put forward comprehensive reform proposals, even when we disagree with their proposed solutions. This document both provides a yardstick against which NAHU can measure other proposals and offers our own reform ideas, which NAHU believes will ensure all Americans "Healthy Access" to private health insurance coverage.

#### **REQUIREMENTS OF REFORM**

- We believe reform must address and reduce skyrocketing medical care costs.
- We believe any reform package must ensure all Americans have access to health care coverage.
- We believe reform must not bankrupt families, the country or individual states.
- We believe reform must provide the country's diverse population with equally diverse health care coverage choices.
- We believe reform should embrace the American principles of individual responsibility and freedom of choice by avoiding the trap of a one-size-fits-all approach.

- We believe reform must promote ongoing and long-term innovation and experimentation to enable the nation's health care system to adapt over time to the evolving needs of its citizens.
- We believe reform must provide consumers with access to meaningful information to enable wise treatment choices and expert advice and counseling from licensed and trained professionals.
- We believe reform must not harm the 85 percent of Americans who have health care coverage under the current system.

**THE THREE INDICATORS OF RESPONSIBLE REFORM:**

1. Cost Containment
  - Does it constrain rapidly rising medical costs?
2. Access for All
  - Does it guarantee that every American has access to health care coverage?
  - Does it empower Americans to find and choose the health care coverage that best fits their unique needs?
  - Does it enable health care coverage to evolve with changes to the country's population, their needs and expectations?
3. Affordability and Financial Access
  - Can the country afford the plan? Can the people afford the plan?

**I. CONSTRAINING MEDICAL COSTS<sup>1</sup>**

Comprehensive health reform plans need to address the true underlying problem with our existing system: the cost of medical care. The reality is that consumers pay for all health care costs through one of three ways: taxes, health insurance premiums or out-of-pocket expenses. If the cost of health care becomes too great, the method of payment no longer matters – the country and its people are bankrupt or unable to access care.

Constraining skyrocketing medical costs is the most critical – and vexing – aspect of health care reform. It is the key driver in rising health insurance premiums and it is putting the cost of health care coverage beyond the reach of many Americans.

There is no one magic answer to health care cost containment and there are many reasons health care costs are skyrocketing. Addressing this massive societal problem requires a multitude of comprehensive actions by individual citizens and elected officials. Many of the topics that need to be addressed to truly lower health care costs in the country, like physical education for children or wiser nutritional choices, are not ones in which NAHU members as a whole have any particular expertise. However, as health insurance producers and employee benefit specialists, we do have extensive knowledge of health insurance markets and factors that are directly driving up health insurance claims costs and, consequently, health insurance premium rates. We feel that the following recommendations would make important improvements to the U.S. health care system to lower costs, improve quality and create greater efficiency.

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<sup>1</sup> Please see NAHU's "Healthy Access Briefing Report: Affordable Access" for more information and details.

## **1. Behavior and Lifestyles**

Unhealthy behavior and lifestyle choices are two key factors in the increased cost of health care. Research shows that behavior is the most significant determinant of health status<sup>2</sup>, with as much as 50 percent of health care costs attributable to individual behaviors such as smoking, alcohol abuse and obesity.

### ***Behavior and Lifestyles Recommendations:***

- Require federal and state governments to incorporate wellness and disease-management programs into medical programs for employees and government-subsidized health coverage programs such as Medicaid, Medicare, SCHIP and the Veterans Health System.
- Provide employers with legal protection, tax incentives and premium incentives for implementing smoking, drug, alcohol and other wellness programs to encourage their employees and their families to adopt healthier lifestyles.

## **2. System Inefficiencies**

Duplication of procedures and overuse of high-end procedures in situations where they add little value increases medical spending unnecessarily. Both patients and the provider community should focus on identifying less expensive but equally efficacious alternatives. In addition, preventable mistakes by providers of medical care not only drive up health care costs, but also costs lives.

### ***System Inefficiencies Recommendations:***

- Provide incentives for doctors and medical facilities to improve system efficiencies and eliminate errors with pay for performance, best practice guidelines and support for evidence-based medicine.
- Create federal standards for interoperable electronic medical record technology to help unify the health care system, reduce errors and improve patient satisfaction.

## **3. Medical Malpractice**

The amount health care providers must pay for medical liability insurance coverage is on the rise, directly affecting health care costs in this country. But an even more costly side-effect of rising medical malpractice insurance rates is when doctors order more tests, medications and referrals than are medically necessary to protect against accusations of negligence.

### ***Medical Malpractice Recommendations:***

- Enact comprehensive medical malpractice reform that limits non-economic damage awards, allocates damages in proportion to degree of fault; places reasonable limits on punitive damages and attorney fees, and imposes reasonable statutes of limitations on claims.
- Encourage state authorities to increase the effectiveness of proper discipline to be imposed on incompetent doctors.

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<sup>2</sup> Mercer Management Journal 18; Centers for Disease Control and Prevention.

#### **4. Cost-Shifting**

Cost-shifting is a “hidden tax” imposed when providers of medical care adjust the prices they charge to private insurance companies in order to offset losses from partial or non-payers. These losses are primarily attributable to uncompensated care costs and declining reimbursements from Medicare and Medicaid, and have a significant impact on private health insurance premiums.

##### ***Cost-Shifting Recommendation:***

- Reimburse providers participating in all federal health care coverage programs, including Medicaid, Medicare and SCHIP, set at the same level paid to providers serving federal employees through the Federal Employees Health Benefit Plan.
- Encourage states to streamline the application processes for public health insurance programs like Medicaid and SCHIP and allow for presumptive eligibility in these programs, so that all eligible participants are enrolled and their providers are paid instead of incurring uncompensated care expenses.

#### **5. Increased Utilization**

Utilization of health care services is increasing, driven by, among other factors, increased consumer demand, new and more intensive medical treatments, defensive medicine, an aging population and unhealthy lifestyles. One way to address this issue is to encourage Americans to become more engaged as consumers.

##### ***Increased Utilization Recommendations:***

- Encourage expansion of consumer-directed health insurance products, like Health Savings Accounts, Health Reimbursement Arrangements and Flexible Spending Accounts, by:
  - Permitting employees to contribute to a HSA even if their spouses have an FSA.
  - Increasing more deductible flexibility in HSAs by allowing prescription drug coverage to be offered without a high deductible.
  - Clarifying that individuals with a family HSA policy simply need to meet the individual deductible requirements, rather than the whole family deductible.
  - Permitting employers to reserve their contributions for disbursements to pay for qualified medical expenses only to increase employer willingness to contribute.
  - Permitting early retirees to use accumulated HSA funds to pay for health plan premiums, expanding the current rules that limit this privilege to those age 65 and older.
  - Eliminating restrictions on the use of HSA funds for Medigap coverage to help those beneficiaries, particularly in rural and urban areas, who only have this option available to them to supplement basic Medicare coverage.
  - Allowing individuals over age 65 to contribute to an HSA as long as they are not yet retired, even though they may automatically be enrolled in Medicare Part A.
- American consumers must be fully aware of the cost of the health care that they are purchasing. To create transparency in health care, we should enable and encourage health plans and providers to overcome policy concerns (e.g. prohibiting gag provisions

in provider contractors) and bring complete price information to the public as soon as possible.

## **II. ACCESS FOR ALL<sup>3</sup>**

All Americans should have access to affordable health care coverage. As important as affordability, however, is choice. There needs to be choice of providers, choice of payers and choice of benefits with many price and coverage options. The reality is that we are a diverse nation with diverse needs. One size does not fit all when it comes to health care.

### **1. Guaranteed Access to Health Insurance Coverage in Every State**

Right now, in a number of states there are people with serious medical conditions and no access to employer-sponsored health insurance; they cannot buy health insurance at any price. Federal access protections in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) ensure that small-group health insurance customers and individuals leaving group health insurance coverage must always have at least one guaranteed purchasing option, but they do not apply to everyone. People purchasing coverage in the traditional private individual health insurance market who are not transitioning from an employer's plan do not have federal guaranteed-issue rights. Most states, but not all, have independently established at least one mandatory guaranteed purchasing option, with the vast majority of state choosing a high-risk health insurance pool to serve this important purpose. While the mechanism for access to health care coverage may vary from state, that access should not be denied any American.

#### ***Guaranteed Access to Health Insurance Coverage in Every State Recommendations:***

- The federal government should require that all states have at least one private guaranteed purchasing option for all individual health insurance market consumers.
- The federal government should provide seed grants to states creating high-risk pools and to subsidize the expansion of financing existing stable state private individual-market high-risk pool arrangements.
- Subsidies should be made available to low-income citizens who otherwise cannot afford coverage.
- Subsidies should be made available to older beneficiaries, who tend to be charged the highest rates, to help ensure continued coverage for early retirees.

### **2. Reinsurance**

A small number of insured within any insurance pool incur the bulk of claims. This makes spreading risk difficult in every market segment. To deal with this challenge, many health plans obtains private reinsurance coverage. These arrangements allow insurance companies to protect themselves against unanticipated, large losses. Self-funded employers typically purchase coverage in a similar manner and project losses based on expected claims from their employee group. The premium paid to reinsurers is factored into the overall premiums paid by employers and insureds.

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<sup>3</sup> Please see NAHU's "Healthy Access Briefing Report: Access for All" for more information and details.

Making it easier and more affordable for carriers to reinsure expenses related to extraordinary claims could prove to be an effective way to lower insurance premiums. Making coverage more affordable might result in significant savings for American families.

The concept of reinsurance is not new. What is missing, however, is a definitive understanding of its overall impact on health insurance costs and the proper role of government in these programs.

***Reinsurance Recommendation:***

- In considering reinsurance as part of an overall reform package, NAHU recommends Congress conduct a study to thoroughly analyze the efficacy of reinsurance programs.

**3. Affordable Access Grants to States**

Health insurance is primarily regulated at the state level. As such, health insurance access and affordability vary greatly on a state-by-state basis. In some states, over-regulation of the health insurance market has decreased competition and placed complex burdens on private health plans, increasing premium costs. Conversely, states implementing market-friendly measures have greater competition among more carriers, provide consumers with greater choice, and have lower premiums and lower numbers of uninsured. Similarly, states have taken different approaches to expanding access to health insurance.

Based on states' experience, NAHU believe states should be encouraged to create regulatory climates that ensure the availability of many affordable coverage options. We further believe states should be encouraged to offer premium subsidies to targeted populations in need of such support.

***Affordable Access Grants to States Recommendations:***

- The federal government should make block grants available to states to encourage and reward state health insurance innovations that utilize the strengths of the existing private health insurance marketplace. To be eligible for these grants, states must adopt a reasonable amount of the following reforms:
  - a. Create broadly funded high-risk pools to serve individuals with serious medical conditions purchasing coverage in the individual health insurance marketplace.
  - b. Allow for the assessment of insurable risk in the individual and small-group health insurance markets for effective risk-management.
  - c. Limit the cost-impact of unnecessary health insurance mandated benefit requirements through the creation of effective independent state mandated benefit review commissions and/or allowing the availability of limited mandates health benefit plan options.
  - d. Enact statewide medical liability reforms that limit non-economic damage awards, allocate damages in proportion to degree of fault, and place reasonable limits on punitive damages and attorney fees with a statute of limitations on claims.
  - e. Create state-level subsidies of private health insurance premiums. Subsidies could target individual purchasers or employers offering coverage to employees,

or both. Subsidies could also be indirect through a private and voluntary reinsurance mechanism.

- f. Modify their state Medicaid and/or State Children's Health Insurance Programs to allow for the subsidization of private health insurance coverage for eligible beneficiaries. Such subsidies could be created for use in either the employer-sponsored health insurance market (if such coverage was available to the beneficiary) or through the individual health insurance market. For individual market purchasers, Medicaid dollars could be used to fund individually controlled health care accounts, which could be used to purchase health care coverage in the private market, as well as to pay any health care related expenses that might not be covered by the private market plan due to deductibles or other cost-sharing arrangements.
- g. Provide state-level income and payroll tax incentives for the purchase of health insurance coverage. This could include refundable tax credits for the purchase of private market health insurance coverage, allowing for the deduction of health insurance premiums for individual and group health insurance purchasers, exclusion of Health Savings Account contributions from state income tax liability and/or other means determined by the states.

#### **4. Tax Equity**

The vast majority of privately insured Americans receive their health insurance coverage through their employer or the employer of their spouse or parent. To help encourage the provision and acceptance of employer-sponsored health insurance, there is a current federal tax exclusion in which amount of an individual's group health insurance coverage premium paid by an employer is excluded from the employee's gross income for income and payroll tax purposes. NAHU strongly supports employers contributing toward the cost of their employees' health insurance coverage and we believe the preservation of the federal employer deduction and employee exclusion is critical.

However, the employer-sponsored health insurance system does not work for everyone. The availability of employer-based coverage has declined in recent years as costs have increased. Employer-based coverage is also not always an option for early retirees or the self-employed. As such, NAHU also supports equity in the tax treatment for individuals and families purchasing health insurance coverage on their own and equal tax treatment for the self-employed. NAHU believes federal tax laws should be updated to provide the same federal tax deductions to individuals and the self employed that corporations have for providing health insurance coverage for their employees.

##### ***Tax Equity Recommendations:***

- Congress should take action to:
  - Remove the 7.5 percent of adjusted gross limit of medical expenses on tax filers' itemized deduction Schedule A form.
  - Allow the deduction of individual insurance premiums as a medical expense in itemized deductions.

- Equalize the self-employed health insurance deduction to the level corporations deduct by changing it from a deduction to adjusted gross income to a full deductible business expense on Schedule C.
- Clarify that individual health insurance policies purchased by employees with no premium paid by the employer are not the same as group health insurance policies and are not subject to the group insurance requirements specified in HIPAA. The employee owns these policies and they stay in force when workers leave their job. In particular, the federal requirements regarding individual policies sold on a list-bill basis, whereby the employer agrees to payroll-withhold individual health insurance premiums on behalf of its employees and send the premium payments to the insurance carrier but does not contribute to the cost of the premiums, need to be clarified. Furthermore, insurers should recognize the individual insurance plan as a valid coverage option for the accounting of participation guidelines of the insurer.
- Clarify that employers implementing list-billing arrangements for their employees may also establish Section 125 premium-only plans for their workers. This would enable employees to pay for their individual policies on a tax-favored basis. If an individual participated in a Section 125 plan for a list-billed policy, those premiums would not be eligible for deduction as a medical expense under Schedule A.
- Establish that all individual health insurance policies sold under a list-billed arrangement are subject to all state insurance regulations governing the issuance of traditional individual insurance policies in the state in which the policy was sold, including rating requirements, issuing requirements and the requirement that such products only be sold by licensed health insurance producers.

### **5. Public/Private Producer Community Education Partnership**

Many uninsured Americans are eligible for state and federal coverage assistance programs but fail to enroll in them. These individuals may not be aware that they are eligible, may be confused about the program options available to them, or may find the public program application process too daunting. All health insurance consumers, both private and public, should have access to quality information and assistance regarding their health care coverage.

#### ***Public/Private Producer Community Education Partnership Recommendation:***

- A Public/Private Partnership should be implemented among the federal government, the states and not-for-profit insurance agent professional associations, such as the National Association of Health Underwriters. NAHU would assume responsibility for training insurance agents in all coverage options both public and private through the creation of a designation program—the Certified Health Care Access Advisor. The CHCAA training program would include both national and state-specific components, and NAHU would make available to the public the list of insurance advisors who have agreed to help this population of people find coverage. Trained advisors would help increase access and overall coverage rates by helping individuals determine what options were available and best suited to their individual needs. In addition, this program would help save administrative and marketing dollars, allowing the savings to be used in a better direction—toward providing more individuals with health care coverage.

### **III. FINANCING ACCESS<sup>4</sup>**

Affordability is inherently necessary to all parties represented in this health care financing reform presentation. It is obvious that an investment in change is required to see positive reform results. We have discussed investments including low-income subsidies, reinsurance purchasing, tax incentives, grants, etc. This section addresses the means through which we could pay for our ideas of investment for positive reform of the financing of health care in America.

#### **1. Inherent Cost Savings**

Many of the Healthy Access recommendations, particularly those concerning controlling our nation's rising health care costs, will actually save both state and federal health care dollars. Recommendations concerning wellness promotion, encouraging more consumer-directed health care and price transparency should substantially reduce health care utilization. Furthermore, eliminating system inefficiencies through medical malpractice reform, advances in health information technology, increased use of physician pay-for-performance standards and greater use of evidence-based medicine will significantly reduce costs. Finally, NAHU's access recommendations, by increasing the numbers of Americans with health care coverage, should generate substantial savings through reduced administrative and uncompensated care costs.

#### **2. Taxing Unhealthy Activity**

Despite these substantial savings, eliminating public program cost-shifting and ensuring access to affordable private health insurance will likely result in the need for increased public funds. NAHU feels such funds should generally be derived from assessments (fees, taxes and the like) on activities that drive health costs higher. Assessments that generally encourage healthy and cost-effective behaviors while discouraging unhealthy and cost-ineffective ones will result in both additional funds and healthier citizens.

##### ***Taxing Unhealthy Activity Recommendations:***

- NAHU believes financing for Healthy Access recommendations should be raised on items such as:
  - Cigarettes and other tobacco products.
  - Alcoholic beverages.
  - Food products that contribute inordinately to obesity through high fat and/or sugar content and fast-food restaurant meals.
  - Handguns and their ammunition.

#### **3. Additional Financing**

Cost savings and fees on unhealthy behavior may not be sufficient to finance guaranteed access to health insurance and premium subsidies. If additional funds are required, NAHU feels such revenue should be generated from the broadest base of payers possible.

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<sup>4</sup> Please see NAHU's "Healthy Access Briefing Report: Financing Access" for more information and details.

***Additional Financing Recommendation:***

- To be prepared if additional financing is required, the federal government should investigate the impact of:
  - a national assessment on hospital stays.
  - a national lottery with proceeds earmarked for health care access and reducing the uninsured.

**CONCLUSION**

The United States health care system works for the vast majority of its citizens, yet we can do better. Improvement will require strong leadership, a thorough debate of all proposals and, ultimately, difficult compromises and decisions. All stakeholders will feel some pain in order to achieve a universal gain. NAHU agrees with those who recognize that the status quo can no longer be everyone's second choice and we pledge full participation in the coming debate.

Ultimately, we believe the time is right for a solution that controls medical care spending and guarantees access to affordable coverage for all Americans. We believe this can be accomplished without limiting the people's ability to choose the health plan that best fits their needs and ensures them continued access to the services of independent – and state-licensed – counselors and advocates. NAHU's Healthy Access proposal is a comprehensive approach to meeting this challenge and a yardstick for evaluating other proposals. We look forward to working with all interested parties in achieving our common goal: a world-class and affordable health care system for all Americans.