



Employer Shared Responsibility Position Paper June 2015

The National Association of Health Underwriters (NAHU), a professional trade association representing more than 100,000 health insurance agents, brokers and employee benefit specialists, opposes mandates to compel our nation's employers to provide their employees with health insurance benefits. Our members help individuals and their families as well as employers of all sizes purchase health insurance coverage. They work on a daily basis to help them use that coverage in the best possible way. We are the consumers' advocate, and their well-being is our primary interest.

NAHU is extremely concerned about the problem of the uninsured and how rising health care costs are impacting health insurance coverage in this country. NAHU believes in the employer-based system of providing individuals with health insurance and is very supportive of voluntary market-based incentives for employers to provide such coverage. However, we feel that the current and any future employer shared responsibility requirement, also referred to as the employer mandate, to force employers to provide health insurance to their employees, while well-intentioned, would actually hurt American workers and health insurance coverage by decreasing jobs and economic growth, as well as do little to address the current problem of affordability.

The employer sharing provision of the Patient Protection and Affordable Care Act (PPACA) is a cornerstone to the affordability of the PPACA goal to provide health coverage to the uninsured. Penalties for lack of participation or "sub-standard" offerings ensure employers participate by sharing in the expansion of coverage to all. As advisors to the businesses affected by this provision, we know first-hand its impact. This provision has increased the complexity and cost of offering benefits, added significantly to paperwork and administration, and reduces the overall benefits of offering health care coverage to employees. As a result, the participation the provision seeks to gain by ultimatum is the very thing that is fostering an attitude of avoidance.

The PPACA has modified the marketplace significantly by mandating certain stipulations on what is considered adequate health coverage. No longer can the employer merely review plans and rates and determine the best coverage option within their budget. Now the coverage offered must include requirements for cost sharing and minimum value regardless of whether the employer can afford the market options containing these features. Employers struggle to continue to provide health insurance benefits to employees, as costs increase each year. At the same time, employers work to provide job opportunities in communities across the country to grow payrolls. We have already seen the negative impact in areas of job creation, wages and job cutting. This provision and the escalating cost of health care, coupled with the impending "Cadillac Tax", will continue to foster a less than enthusiastic response from employers in sharing the responsibility.

More and more is being required of employers. Administering a health care benefits plan in the post-PPACA world is a much more onerous process. The PPACA employer reporting requirements that begin in 2016 for the 2015 tax year, along with numerous other reporting and record keeping responsibilities, create a higher level of administration than ever before. Employers are taking on extra costs to manage these tasks and adding to the burden of already over-burdened administrative staff. This is another significant issue for employers to contend



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with and one that may lead many to really look closely at the costs of offering coverage compared to any penalties.

The enactment of legislation that mandates employers provide any type of benefit or be penalized for not doing so sets a dangerous precedent. Historically, employers have used health care benefits in addition to salary and other workplace benefits to distinguish themselves in the marketplace. Health insurance in this country has historically never been a right associated with employment, but instead has always been provided by many employers as a benefit. The decision to offer, or to not offer health insurance coverage and other employee benefits helps our nation's businesses attract the best workers, motivate and reward their existing employees and compete with one another.

The directive to offer coverage has a trade-off at the employee level. They are giving up salary for health care benefits. Not all workers need employer sponsored health care benefits: they may have them through a spouse or another program but by forcing all employers to offer, the wage base for everyone, even those not electing coverage, decreases. Leaving employers to discern their work force needs and compete with salary and benefits in their own marketplaces provides the best outcomes of salary and benefit for the employees.

The employer mandate has the potential to harm American businesses and employees by now taking away a large amount of the choice employers previously had when determining the type of plan they would provide to their employees. Provisions in the PPACA that specifically target our nation's largest companies now impacts our small sized businesses too. Escalating costs in the small employer marketplace are having an impact on their ability to stay in business. Measures that would force an employer to spend certain dollar amounts or percentages of their payroll on health care costs merely provide a disincentive for responsible spending and health insurance rate containment. We should not, as a matter of public policy, contribute to the erosion of job opportunities for Americans and encourage health insurance costs to go up even further by continuing to enforce employer mandates.

The employer mandate ultimatum ends with an all or nothing approach. Employers must offer specific coverage to all full-timers in an administratively labor intensive way or pay penalties. There is not much middle ground and those who choose to play may have little left over to help their non-full-time workforce. In addition to our concerns about the employer-mandate component to such an approach, NAHU also opposes government-sponsored plans to provide coverage that could more adequately be provided by the private market. Other countries' experiences with government-run health insurance plans clearly show that they deny care to those who need it most through medical rationing, can limit an individual's access to the most up-to-date medical technologies, and often shortchange physicians and other health care providers. For example, Vermont's recent attempt at implementing a single payer system, "Green Mountain Care" failed as a result of spiking costs with the requirement that consumers buy plans with higher actuarial values than are required by the PPACA, tax increases to fund the initiative, and ineffective enforcement with exceptions for large employers operating in multiple states.



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NAHU firmly believes that the employer mandate and/or a state-sponsored fund can and will assist many uninsured citizens but we also believe that the real problem of rising health care costs in America has not been adequately addressed to date. Rising costs are what is driving the increase in the number of uninsured Americans since they make it so difficult for both employers and individuals to purchase affordable health insurance products. Addressing this problem through market-based solutions, such as allowing the sale of varying products based on individual need, improving regulatory environments to make state health insurance markets more competitive, and providing tax credits and incentives so that more individuals and employers can afford to purchase coverage, makes much more sense. Such tax credits were provided for through the PPACA for small businesses, but only for those applying for and receiving coverage through the small business health options exchange (SHOP). To date the SHOP has had limited plans available to small businesses, and the small business tax credit stringent requirements are a barrier to qualification. This tax credit would better serve its purpose if it was available to employers both inside and outside of the SHOP. Working with consumers to improve national wellness, raise awareness of healthcare pricing and reduce unnecessary utilization of health care services, also would go a long way toward controlling health care cost increases.

NAHU supports market-based changes to make health insurance products accessible and affordable for all Americans. We encourage the development of policies that will continue to allow both employers and individuals to choose the benefits that are most appropriate for them on an individual basis, and oppose any measures that would allow the government to dictate how and when health insurance should be provided by employers. NAHU strongly supports the role of the broker, which has evolved into a more specialized and necessary occupation to properly assist employers of all sizes as they attempt to make practical, responsible and fiscally equitable decisions that benefit their workforce.