



May 22, 2009

Sen. Max Baucus
Chairman
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20500

Sen. Charles Grassley
Ranking Minority Member
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20500

Dear Chairman Baucus and Ranking Member Grassley:

On behalf of the National Small Business Association (NSBA), I am pleased to present comments in response to your May 14, 2009, paper titled “Expanding Health Care Coverage: Proposals to Provide Affordable Coverage to All Americans.”

NSBA is the nation’s oldest small-business advocacy group representing employers in every state. As an organization, we represent all sectors and industries of the U.S. economy from retail to trade to technology—our members are as diverse as the economy which they fuel. More than one in two people in the U.S. private workforce—70 million—work for or run a small business, according to data from the U.S. Small Business Administration Office of Advocacy and U.S. Census Bureau. Small business comprises 99.7 of all U.S. private employers, or 26.8 million businesses, and creates more than half of U.S. gross domestic product.

NSBA appreciates the opportunity to comment on policy options addressing health care coverage. Providing coverage to our nation’s uninsured and underinsured is a critical aspect in reforming the U.S. health care system. Due to the variability of the small group and individual health insurance markets, small businesses play a vital role in health care coverage reform and our voice should be embraced as deliberations proceed. Covering the nation’s 46 million uninsured—a large percentage of which work in small businesses—is no easy task. NSBA is fully committed to supporting Congress to pass comprehensive health care insurance that provides for quality, affordable health insurance choices to our nation’s small businesses, their employees and dependents.

Small business consistently triumph fiscal challenges to earn the adage of being the nations engine of economic growth. However, with respect to the current economic recession and recent trends in rising health care costs, small businesses need help. The cost of health insurance premiums has increased by 119 percent since 2001, far-outpacing inflation, which was increased 29 percent during that period. According to a recent NSBA survey, 97 percent of small businesses were subject to increased premiums since 2005. The impact from the rising costs resulted in 57.9 percent of employer respondents freezing employee compensation, 38.6 percent holding off on new hires, and 12.1 percent

laying of an employee. In addition, survey results indicate that 51.6 percent of employer respondents are considering increasing employee's contributions, while 11.1 percent are considering dropping coverage.

As expected, NSBA members consistently rank health care reform number one or number two on the list of priorities for small-business owners, and the issue continues to be among the top challenges facing the future growth and survival of their businesses. Sixty-nine percent of small businesses surveyed in 2008 said they want to offer health insurance, however only 38 percent were able to do so—down from 67 percent in 1995. The ability to offer health insurance is creating a significant competitive disadvantage for small firms, as 99 percent of large businesses offered health insurance in 2008.

NSBA has been engaged in health care policy for decades, and in 2003 published *Small Business Health Care Reform—A Long-Term Solution for All*. This broad reform proposal of the health care system seeks to achieve universal coverage, focus on individual responsibility and empowerment, the creation of the right market-based incentives, and a relentless focus on improving quality while driving out unnecessary, wasteful, and harmful care. While covering the uninsured should be a high priority for health care reform, the number of uninsured is only a symptom rather than source of the problems in our nation's broken health care system. The decisive factor that small businesses cite for not offering health insurance to their employees is cost. Thus, NSBA is pleased the Committee choose to address delivery system options that control cost prior to issues on coverage and health care financing.

Our comments as a non-profit association address the general principles that we apply to promoting health reform outlined in *Small Business Health Care Reform: A Long-Term Solution for All*, and speak to the specific provisions outlined in your paper in the order in which they appear. Our suggestions follow a common theme shared in previous comments on delivery system options and subsequent comments on health care financing options: small businesses need relief from rising health care cost without delay.

SECTION 1: Insurance Market Reforms

Non-Group, Micro-Group, and Small Group Market Reforms

NSBA quickly learned that small business challenges in health care cannot be solved in isolation from the rest of the system. Since small businesses purchase insurance as part of the overall small group (2 to 50 employees), the decisions of others directly affect what a small business must pay and the terms on which insurance is available to them.

The reality of the non-group, micro-group (2 to 10 employees), and overall small group is individuals may choose to move between markets to find the best rate. In fact, millions of relatively healthy Americans choose not to purchase insurance (at least until they get older or sicker) due to the cost. The absence of these individuals from the insurance pool means that premiums are higher for the rest of the pool than they would be otherwise.

NSBA is interested in eliminating the variances that currently exist between the non-group, micro-group, and overall small group markets. Universal participation of all individuals in some form of health care coverage would address the variability of each market. This reform would provide for a different characterization of the non-group, micro-group, and overall small group markets by encompasses those who utilize the health care system as well as those who are healthy. In fact, implementing an individual responsibility requirement in conjunction with federal rating rules across markets would effectively make these separate markets irrelevant for individuals shopping for the most affordable health insurance policy.

Thus, NSBA supports federal ratings and guaranteed issue and renewal rules for all coverage, across all markets for a federally-defined basic benefit package. Insurance companies should be required to operate within narrow rate-bands based on modified community rating only limited to allowable actuarially-sound rating characteristics, such as those outlined in the Senate Finance Committee paper. However, the 5:1 proposed rate bands for age seem too broad. We are concerned that allowing insurance companies to charge older small business owners, their employees, and dependents 5 times more than younger adults based on age would result in small business owners not having access to affordable, quality coverage.

Health Insurance Exchange

NSBA's health care reform proposal supports a common set of insurance rules and other reforms to achieve quality and transparency across all markets, and the need for subsidies to be tied directly to eligible individuals. The concept of a health insurance exchange as a component to broad health care reform is proposed to address these issues. Overall, NSBA supports efforts to achieve greater transparency and access through reforms to standardized health insurance policy information and provide a more consumer friendly market. However, NSBA is unconvinced of the need for such a mechanism if the aforementioned reforms are implemented. If a health insurance exchange is implemented, it should be carried out at the state level and all market rules and financial subsidies should be consistent between the exchange and the rest of the health insurance market.

Transition

NSBA's understanding of the "grandfathered plans" proposal is that the Committee is aiming to get all the individuals from plans with more broad rating rules (grandfathered plans) to participate in plans with the new set of federally rules. This would be accomplished by withholding low-income tax credits to individuals enrolled in grandfathered plans. Enrolling all individuals into a common pool is critical, and it is certainly true that healthy individuals might remain in grandfathered health plans with lax rating rules absent an incentive to change.

Role of State Insurance Commissioners

NSBA supports the proposed options on the role of state insurance commissioners. They should continue to provide oversight of plans with regard to consumer protections, rate

reviews, solvency, reserve requirements, and premium taxes. In addition, state insurance commissioners should provide oversight of plans with respect to federal rating rules and risk-adjustment within their states. NSBA also agrees with the need for federal fallback provisions to ensure that states comply with the new rules.

SECTION II: Making Coverage Affordable

Benefit Options:

NSBA supports a simple, truly basic health benefit package to ensure both affordability and choice are inherent in the overall system. The required basic package should include only evidence-based, scientifically sound benefits that would be determined on a federal level. The process for defining the basic package must be nonpolitical and incorporate an appropriate array of stakeholder involvement including state insurance commissioners, state legislative representatives (governors or legislators), insurers, actuaries, small and large businesses, consumer groups, providers, and those insured. This group shall be responsible for not only defining the initial package offering, but also for evaluating, on an ongoing basis, a broad cost-benefit analysis of benefits offered, as well as evaluating such analysis of any proposed additional benefits.

NSBA suggest offering greater clarity to the proposed benefit package levels in order to provide appropriate comments.

Low-Income Tax Credits

NSBA supports the availability of low-income tax credits for low-income taxpayers. In addition, NSBA agrees with the Committee's proposed option to attach the subsidy directly to the individual based on their modified adjusted gross income. However, NSBA opposes preferential arrangements where these subsidies should be delivered only through a health insurance exchange. Low-income individuals should have the choice to purchase coverage through any market of their choice. Also, individuals receiving premium subsidies should be required to purchase the minimum benefit package.

Small Business Tax Credits

NSBA is generally supportive of the Committee's proposal to provide a tax credit to certain small employers for the purchase of employer provided health insurance. Tax credits should be considered as an incentive to provide coverage, but not as a tool to lessen the impact of a potential employer mandate—something that NSBA is opposed to. In addition, NSBA is skeptical of the long-term sustainability of tax credits since their value can diminish with rising health care costs and inflation.

SECTION III: Public Health Insurance Option

NSBA is engaged in continual dialogue with small business owners on the proposal to establish a public health insurance option to compete in the private health insurance market. In general, the concept of including a provision that would ensure honesty and trust in the private insurance market is commendable. In addition, NSBA believes that

competition is good, and should be directed to lower cost for consumers. However, NSBA urges the Committee to address these goals within every aspect of the current health care system, and not simply through the creation of a new public health insurance option. Furthermore, NSBA is concerned that a public health insurance option could do more to undermine than enhance needed market reforms.

With respect to the June and July goals to present legislation on comprehensive reform, NSBA urges that the Committee present details expeditiously to allow for appropriate feedback from the small business community. We look forward to maintaining dialogue with the Committee as more information is made available.

SECTION V: Shared Responsibility

Personal Responsibility Coverage Requirement

NSBA supports the universal participation of all individuals in some form of health care coverage; thus, NSBA concurs with the Committee's proposal for all individuals to have a personal responsibility requirement to obtain health insurance coverage.

Employer Requirement

NSBA looks forward to working with the Committee to find appropriate and reasonable streams of revenue to finance comprehensive health care reform. However, NSBA opposes any mandates on small business employers to provide health insurance to their employees. The notion of a 'pay or play' scheme on employers is riddled with complex financial challenges and repercussions that could have a devastating impact on the ability of small businesses to be productive and create jobs.

Although mandating a 'pay or play' provision may not impact larger businesses that can already afford to offer health care to their employees, small business would be forced to make extremely difficult decisions to absorb the financial blow during the current economy. In addition, proposals that provide cookie cutter categories to justify pay or play participation simply fail to recognize the diversity and unique goals of every small business. Establishing mandates on small businesses based on gross sales, number of employees, percentage of payroll, or other methods could prove detrimental to some businesses.

NSBA supports the Committee's proposed option B, which would not require employers to pay or play, but would still have a coverage requirement for individuals.

SECTION VI: Options to Improve Access to Preventive Services and Encourage Health Lifestyle

Employer Wellness Credits

Small businesses would like to do all that they can to lower the cost of their health insurance and ensure a healthy workforce. However, small businesses face unique challenges in providing wellness programs and incentives to their employees. In a recent NSBA survey, only 20 percent of respondents offer their employees wellness benefits or incentives. The reasons small businesses do not offer wellness plans or incentives varies, including cost (65.4 percent), lack of options (26.2 percent), administrative burden (25.4 percent), and failure to impact their health care costs (24.6 percent).

NSBA suggest that the Committee address the interpretation of the Americans with Disabilities Act of 1990 by the Equal Employment Opportunity Commission to provide more flexibility to small businesses to become more active in wellness programs. The Commission's explanation prohibits employers from requiring health risk assessments, even when the employer does not get personally identifiable data from them and the results go only to the employee.

NSBA also suggest the Committee take a close examination of the Health Insurance Portability and Accountability Act (HIPAA) rules that now prevent employers from knowing anything about the success of wellness and prevention plans they endorse and promote. Small business owners would be more inclined to participate in wellness programs and incentives if they knew they were meaningful to their employees.

Wellness programs for large self insured businesses and those for smaller fully-insured businesses need to be considered separately from one another for several important reasons, including staffing and location logistics and employer incentives.

Large employers are likely to have a human resource staff that can organize and facilitate wellness program participation. At the most basic level, larger employers typically have a facility or space to facilitate wellness programs, including conference, lunch or break rooms. Larger employers might also have access to on-site medical care, a gym or enough acreage for a walking trail. Small businesses typically have none of these luxuries; thus, logistics becomes a significant hurdle.

Additional discrepancies exist between larger employers that are more likely to be self-insured with respect to fully-insured small businesses. Self-insured companies capture savings to their bottom line when employee's health care costs are lowered due to wellness programs. This is not true of a fully-insured small business. Any savings from the wellness program for small businesses would be enjoyed by and shared among the pool. For example, if Small Business X were to invest \$10,000 in a wellness program, and medical claims dropped \$20,000, Small Business X would never know that (beyond anecdotal remarks and attendance reviews) due to HIPAA; thus, Small Business X would

have all the investment and no return. There must be an employer incentive to provide wellness programs.

The Committee's proposal to provide employers with 50 or fewer employees with a credit limited to \$400 per employee with no sunset requirement is policy in the right direction. However, more must be done to provide small businesses with logistical assistance and flexibility to become more involved with their employees wellness participation.

Conclusion

We thank you for the opportunity to comment on the policy options for expanding health care coverage, and we welcome the challenge of actively working with Congress, the Administration and all stakeholders on this tremendously critical task. Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd O. McCracken", with a long horizontal line extending to the right.

Todd O. McCracken
President