# AHPs not the Prescription for Small-Business

Recently, President Donald Trump signed an Executive Order (EO) on health insurance directing federal agencies to pursue regulatory changes that will expand Association Health Plans (AHPs). While the intent is to provide greater options and lower costs by allowing small businesses to band together across state lines and purchase group health insurance plans, NSBA is urging caution to ensure that the expansion of AHPs—particularly as previously devised prior to the implementation of the Affordable Care Act—doesn't move health insurance further out of reach for many small businesses and their employees.

## Background

Starting in the mid-90s, proposals have circulated that would allow small employers to pool together to allow them to better spread risk and thereby reduce insurance costs. These proposals, including AHPs, HealthMarts and Multiple Employer Welfare Arrangements (MEWAs), would make several changes which most large employers can utilize, but that due to their size, most small businesses cannot, including:

- Provide small employers so-called "economies of scale" when it comes to bulk purchasing of health insurance and better spread risk among the pool;
- Allow these plans to operate under the Employee Retirement Income Security Act (ERISA) preemption provided to larger employers that enables them to avoid costly state mandated benefits;
- Enable small employers, through AHPs, to more easily self-insure and avoid various costs of being fully insured (where the insurance company takes on the financial risk of the pool); and
- Price plans, or rate based on pool experience, i.e.: the health of employees.

While these plans—and the basic premise of bulk purchasing—sound like a good idea to ease costs, the realities of how AHPs would operate within the insurance market could actually result in higher health insurance costs for millions of small employers and their employees, and ultimately destabilize the entire health insurance market. By enabling AHPs to circumvent state rules and licensing, sell plans that fall short of current required benefits, and allow for greater pricing consideration of the health and age of those covered, it is highly likely that AHPs would attract only younger, healthier individuals, leaving the existing market flooded with older, sicker individuals.

Furthermore, the oversight on these plans, as previously devised, would be woefully minimal, creating opportunities for bad actors to sell fraudulent plans that would become insolvent, leaving sick people with massive unpaid medical bills, quite similar to the widespread failures of MEWAs in the 1980's and1990's. According to a Congressional Budget Office (CBO) report: "As of December 1998, the Department of Labor had initiated 358 civil and 70 criminal investigations of MEWAs that affected over 1.2 million enrollees and involved monetary violations of more than $83.6 million."

## Top Concerns with AHPs:

*Result in Higher Costs for Millions of Small Businesses*
Health care costs continue to be one of the biggest problems facing America's small-business owners today – AHPs only address those costs for employers and/or industries that have healthier and/or younger populations.

*Splinter the Small Business Market, Rather than Bring Purchasing Clout*

AHPs could design their own benefit plans in ways that would not be attractive to older and sicker participants, leaving those AHPs with better risks. Most competition would be over attracting better risks, rather than negotiating lower-cost health care. Organizations with a younger/healthier population would start AHPs; those with an older/sicker population would not.

Past reports from the CBO have estimated that simply securing better risks for their pools would account for two-thirds of AHP's potential cost advantage. The rest would come from simply eliminating benefits. Furthermore, CBO has projected that the 80 percent of small business employees not participating in AHPs would almost uniformly see their premiums increase.

*Leave Consumers Without Sufficient Protections*

As crafted in past iterations of legislation, self-insured AHPs would be exempt from all state regulations including solvency requirements, consumer protection rules, and benefit mandates. The only recourse for small employers possibly exploited by these plans would be to deal with the U.S. Department of Labor – a massive federal bureaucracy vs. a local health insurance commissioner.

*Failure to Increase Health Insurance Access*

Rather than increase health insurance coverage, AHPs have been estimated to actually increase uninsured rates by more than one million, according to a June 2003 study by Mercer Risk, Finance and Insurance. Furthermore, the CBO has projected that those individuals switching from another form of coverage to an AHP would outnumber the newly insured by 14-to-1.

*Failure to Address the Drivers of Health Costs in America*

AHPs are a minor tinkering of the system and do nothing to address in a long-term, sustainable way, rising health care costs. Rather than chasing old, failed policies, NSBA urges the Administration and Congress to focus on the central issues primarily responsible for sky-rocketing health care costs: rewarding procedures instead of outcomes; hidden pricing structures; electronic records that fail to properly transport and communicate for the patient; and rampant defensive medicine.

For decades, NSBA has called for broad health care reform that is affordable, offers universal access, promotes individual responsibility, has proper market-based incentives, improves the quality of our care and eliminates wasteful care. The Affordable Care Act has fallen far short of such reform and needs significant improvements. Unfortunately, AHPs represent a real danger that new insurance rules could simply scramble the list of 'winners and losers' without making real progress on our fundamental health care challenges.