

**Written Testimony of J. Mark Iwry  
Senior Advisor to the Secretary and  
Deputy Assistant Secretary for Retirement and Health Policy  
U.S. Department of the Treasury  
Before the Senate Committee on Small Business and Entrepreneurship**

**July 24, 2013**

Chairman Landrieu, Ranking Member Risch, and Members of the Committee, I appreciate the opportunity to discuss implementation of the provisions of the Affordable Care Act (“ACA”) that relate to small businesses. The ACA provides numerous benefits to all Americans, including benefits for employees and owners of small businesses.

**Benefits of the Affordable Care Act for Small Businesses**

For years, many small businesses across America have struggled to provide health benefits to their employees. Small business owners often cannot afford to pay for specialized health insurance expertise and therefore are at a disadvantage in comparing different policies and choosing those that most efficiently provide benefits best suited to their employees. Additionally, it is estimated that small businesses pay more on average than large businesses for similar health insurance coverage.

The Affordable Care Act helps level the playing field by increasing the bargaining power of small businesses and lowering their costs. Small business owners will receive standardized information that will make it easy to compare insurance policies on an “apples to apples” basis. This will enable them to make choices they believe are right for their business and their employees. Also, beginning October 1, 2013, small businesses with 50 or fewer employees will be able to pool their buying power and reduce administrative costs by purchasing affordable insurance through the Small Business Health Options Program (SHOP).

In 2014, new market rules will ensure that premiums small employers pay for most health insurance plans will not vary based on the type of small business that purchases the coverage or the health status of the small business’s employees. Under the Affordable Care Act, premiums will be allowed to vary only by age, tobacco use, family size, and geography. Small businesses no longer will be penalized due to the health status or gender of their employees, and insurers will face limits on charging additional premiums for older employees. These reforms will benefit both small businesses and their employees.

By making coverage more affordable, the Affordable Care Act will help encourage entrepreneurship. Among other things, the ACA will help increase individuals’ incentives to start their own businesses and end the situation in which workers are reluctant to leave a job with health insurance for fear of being unable to find, or afford, health insurance on their own (often referred to as “job lock”). The ACA will also allow small businesses to compete more effectively with larger businesses to recruit and retain skilled workers by offering health coverage.

While the Affordable Care Act makes it easier for small businesses to offer health coverage if they choose to do so, the great majority of small businesses will not be required to offer coverage. Small businesses with fewer than 50 full-time employees are completely exempt from the law's employer responsibility provisions. That means about 96 percent of all firms in the U.S. are exempt from those requirements. Of larger small businesses with 50-199 employees, almost all already offer coverage.

### **Tax Credits for Small Businesses**

To make health insurance more affordable for small businesses, the ACA also provides tax credits for many small businesses that offer coverage to their workers. The Congressional Budget Office has estimated that the tax credit will save small businesses around \$14 billion over the current ten year budget window. Both for-profit and nonprofit organizations may qualify for the tax credit.

In order to be eligible for the credit, a small business must make uniform contributions on behalf of its employees of at least 50 percent of the cost of health insurance premiums. For taxable years beginning in 2010 through 2013, the credit has been available for any health insurance coverage purchased from an insurance company licensed under State law. For taxable years beginning after December 31, 2013, however, the credit is available only for health insurance purchased through a SHOP Health Insurance Marketplace (also known as an Affordable Insurance Exchange) and for a maximum coverage period of two additional consecutive taxable years.

A small business qualifies for the credit if it employs fewer than 25 full-time (or full-time equivalent) employees during the taxable year and if those employees have annual full-time equivalent wages that average less than \$50,000 (indexed beginning in 2014). During 2010 through 2013, the maximum credit is 35 percent (25 percent for tax-exempt employers) of the small business's contributions to the premium. For 2014 and later years, the maximum credit percentage is 50 percent (35 percent for tax-exempts). For purposes of the tax credit, contributions that are taken into account may not exceed the amount the small business would have contributed had it paid the State average premium. The credit is phased out on a sliding scale between 10 and 25 full-time equivalent employees as well as between an average annual wage of \$25,000 (indexed) and \$50,000 (indexed).

Administrative guidance (Notice 2010-44 and Notice 2010-82) provides the rules for obtaining the credit through 2013. Guidance for obtaining the credit for years after 2013 is expected to be issued shortly.

The Administration's Budget for fiscal years 2013 and 2014 includes a proposal to expand the small business tax credit. Expanding eligibility for the credit and simplifying its operation would increase the utilization of the credit and encourage more small employers to provide health benefits to employees. The expanded credit would also provide an additional incentive for small employers to join a SHOP Health Insurance Marketplace, thereby broadening the risk pool. The proposal would expand the group of small businesses that are eligible for the credit to include small businesses with up to 50 full-time equivalent employees and would begin the phase-out at

20 (rather than 10) full-time equivalent employees. In addition, among other things, the proposal would change the coordination of the phase-outs based on average wage and the number of employees so as to provide a more gradual combined phase-out. As a result, the proposal would ensure that small businesses with fewer than 50 employees and an average wage of less than \$50,000 would be eligible for the credit, even if they are nearing the end of both phase-outs.

### **Tax Credits for Individuals and Insurance Market Reforms**

In addition to the small business tax credit available to small employers, the Affordable Care Act provides for a premium tax credit that will help about 20 million Americans afford health insurance on the new Health Insurance Marketplaces. Under the statute, open enrollment for insurance purchased through the Marketplaces will start October 1, 2013, with coverage beginning as soon as January 1, 2014.

The ACA also includes various insurance market reforms, which provide important protections for employees and other individuals. Thanks to those reforms, young adults up to age 26 are able to stay on their parents' health insurance plan; individuals are now able to receive many preventive services free of charge; insurance companies must spend at least 80 percent of their policyholders' premium dollars on health care and not overhead; insurance companies may no longer deny coverage to children for a pre-existing condition; and beginning in 2014, may no longer deny coverage for anyone with a pre-existing condition.

### **Employer Reporting and Employer Shared Responsibility Provisions**

It is worth noting that the Treasury Department recently provided transition relief with respect to the employer reporting and employer shared responsibility provisions of the Affordable Care Act. These provisions affect only employers with 50 or more full-time workers (i.e., applicable large employers), which constitute only about 5 percent of all U.S. businesses. Accordingly, most businesses, and particularly most small businesses, are not affected by the employer reporting or employer responsibility provisions.

The Treasury Department announced on July 2 (followed by published formal guidance on July 9, see Notice 2013-45) that it would provide one-year transition relief (for 2014) with respect to three provisions of the ACA: (i) the information reporting requirements that apply to insurance companies, self-insuring employers, and certain other entities that provide minimum essential health coverage under section 6055 of the Internal Revenue Code (the Code); (ii) the information reporting requirements that apply to applicable large employers under section 6056 of the Code, and (iii) the employer shared responsibility provisions under section 4980H of the Code, which may apply if one or more full-time employees of an applicable large employer obtains a premium tax credit.

This transition relief does not affect employees' or other individuals' access to the premium tax credits available under the Affordable Care Act beginning in 2014 or the effective date of other ACA provisions, including the individual responsibility provisions, the insurance market reforms, and the various revenue provisions.

**Conclusion**

The Affordable Care Act is projected to increase by nearly 30 million the number of Americans with health coverage. The Administration is implementing the ACA to build on the progress already made toward better and more affordable coverage. We welcome the opportunity to further work with this Committee to achieve these objectives. Thank you and I look forward to answering your questions.