

**STATEMENT OF  
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**ON**

**AFFORDABLE CARE ACT IMPLEMENTATION:  
EXAMINING HOW TO ACHIEVE A SUCCESSFUL ROLLOUT OF THE SMALL  
BUSINESS EXCHANGES**

**BEFORE THE**

**U.S. SENATE COMMITTEE ON  
SMALL BUSINESS & ENTREPRENEURSHIP**

**NOVEMBER 20, 2013**

## **Statement of Gary Cohen on**

### **“Affordable Care Act Implementation: Examining How to Achieve a Successful Rollout of the Small Business Exchanges”**

**U.S. Senate Committee on Small Business and Entrepreneurship**

**November 20, 2013**

Chairman Landrieu, Ranking Member Risch, thank you for the opportunity to discuss the many benefits that the Affordable Care Act will provide for small businesses. Although many small employers would like to offer health benefits to their employees, they have faced many challenges. Historically, small businesses have been charged 10 to 18 percent more for the same benefits compared to large employers.<sup>1</sup> It has been difficult for employers to comparison shop among issuers. Small businesses employing women or workers with chronic or high-cost illnesses, or with pre-existing conditions, have faced higher insurance rates in most states. Because small firms have fewer employees to pool, premiums can vary dramatically from year to year due to changes in just one or two workers' health status or because of small changes in the ratio of male to female employees. The Affordable Care Act removes these obstacles for most plans and fosters more predictable rates while it helps small employers provide their employees with high-quality, affordable health care coverage that cannot be taken away or priced so high that it is out of reach for most businesses just because someone gets sick.

On October 1, 2013, the Health Insurance Marketplace opened, providing Americans, including small businesses, with a new way to shop for health insurance coverage. The Small Business Health Options Program (SHOP) will provide small businesses with a new, streamlined way to purchase the high quality health care coverage. There is no limited open enrollment period for the small group market, which means that small businesses can generally buy coverage for their employees on or off the Marketplace at any time during the year.

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<sup>1</sup>[http://www.commonwealthfund.org/~media/Files/Publications/In%20the%20Literature/2006/May/Benefits%20and%20Premiums%20in%20Job%20Based%20Insurance/Gabel\\_benefitspremiumsjobbased\\_925\\_itl%20pdf.pdf](http://www.commonwealthfund.org/~media/Files/Publications/In%20the%20Literature/2006/May/Benefits%20and%20Premiums%20in%20Job%20Based%20Insurance/Gabel_benefitspremiumsjobbased_925_itl%20pdf.pdf)

## **Reforms are Already Helping to Make Insurance More Affordable and Comprehensive**

The Affordable Care Act is already ensuring that small employers get better value for their premium dollar. Before the Affordable Care Act, Americans watched insurers raise their premiums year after year, often without explanation or anyone reviewing the rates to ensure they are appropriate. As a result, premiums doubled over a decade, while benefits were often pared back. In an effort to slow health care spending growth and give all Americans more value for their health care dollars, the Affordable Care Act has brought an unprecedented level of scrutiny and transparency to health insurance rate increases by requiring an insurance company to justify a rate increase of 10 percent or more for most plans in the individual and small group markets, shedding light on arbitrary rates.

The average premium increase for small businesses in 2012 was 4.7 percent, which is 19 percent lower than the average requested premium increase.<sup>2</sup> Americans saved an estimated \$866 million on their health insurance premiums in the small group market in 2012 after rate review. The Affordable Care Act's requirements for transparency and a justification of rate increases is working—more than a third of insurers' requests for rate increases of 10 percent or more ultimately resulted in issuers imposing a lower rate increase than requested or no rate increase at all.

The rate review program works in conjunction with the 80/20 rule (also called the Medical Loss Ratio rule),<sup>3</sup> which requires insurance companies to spend at least 80 percent of premiums on health care, and no more than 20 percent on administrative costs (such as executive salaries and marketing) and profits in the individual and small group markets. If insurance companies fail to do so, they must provide rebates to their customers. In 2012, the 18.2 million small business owners and their employees covered by this 80/20 rule saved an estimated \$1.0 billion upfront on their premiums because of the rule and other Affordable Care Act programs.<sup>4</sup> Additionally,

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<sup>2</sup> Rate Review Annual Report, September 2013.

[http://aspe.hhs.gov/health/reports/2013/acaannualreport/ratereview\\_rpt.cfm](http://aspe.hhs.gov/health/reports/2013/acaannualreport/ratereview_rpt.cfm)

<sup>3</sup> MLR Final Rule: <https://www.Federalregister.gov/articles/2012/05/16/2012-11753/medical-loss-ratio-requirements-under-the-patient-protection-and-affordable-care-act>

<sup>4</sup> Based on internal analysis of the MLR Public Use File for 2012. Public use file available at <http://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/2012-medical-loss-ratio-report.pdf>

small group market consumers saved \$207 million in rebates, with families accounting for 3.1 million enrollees receiving an average rebate of approximately \$123 per family.<sup>5</sup>

Group health insurance plans have to comply with restrictions in the annual dollar limits they can place on essential health benefits. The lowest permissible annual limits has been increasing since September 23, 2010, and for plan or policy years beginning in 2014, group health plans will be prohibited from imposing annual dollar limits on essential health benefits. Because of this change, Americans will no longer worry about hitting an annual cap, which could have forced them to either pay out of pocket for health care costs above the dollar limit or forgo necessary care.

#### *New Market Rules Make Coverage More Affordable*

In the past, most small businesses were subjected to wide variations and high volatility in premiums based on the type of work they did or the health status of their workers. A small construction company often would pay more than an accounting firm of the same size for the same coverage. Small employers often faced significantly higher rates if they had older workers or more women on the payroll. And because of the small risk pool, if even one employee or dependent became ill, rates for the entire firm often would skyrocket. The market reforms in the Affordable Care Act have helped address these practices.

For plan years beginning in 2014, new market rules will ensure that premiums for most health insurance plans available to small employers will not vary based on what type of small business they cover or the health status of the firm's employees. Premiums can only vary by age, tobacco use, family size, and geography. Most small businesses can get coverage without being penalized due to the health status or gender of their employees or because an employee becomes ill, with limits on additional premiums for older employees. And because generally, risk pools in state small group markets will be merged beginning in 2014, small businesses will be shielded from the impact of one employee becoming ill.

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<sup>5</sup> <http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/2012-mlr-rebates-by-state-08-01-2013.pdf>

Small employers and their employees can also buy coverage with confidence that health insurance plans will cover the important health care services they need. Most small group insurance plans, including all plans in the SHOPs, must cover essential health benefits<sup>6</sup> that are based on what a typical small business offers in the market today. These benefits— which must be equal in scope to a typical employer health plan—include items and services such as ambulatory patient services (including doctors’ visits), hospitalization, prescription drugs, and maternity and newborn care. These plans must meet certain actuarial values: 60 percent for a bronze plan, 70 percent for a silver plan, 80 percent for a gold plan, and 90 percent for a platinum plan. Actuarial value means the average percentage paid by a health plan of the total allowed costs of benefits. For example, if a plan has an actuarial value of 70 percent, the average consumer could expect to be responsible paying out of pocket for approximately 30 percent of the cost of care for the essential health benefits the plan covers. These tiers will allow business owners to compare plans with similar levels of coverage, which, along with comparing premiums, provider participation, and other factors, will help them make more informed decisions.

Last week, the Administration announced that insurers can offer consumers and small businesses the option to renew their 2013 health plans in 2014, without change, allowing them to keep their plans. To access this option, insurers must notify enrollees that they can purchase coverage through the Health Insurance Marketplace where they can potentially qualify for premium tax credits. And they must tell consumers what protections they are giving up to keep the plan they have. Older plans cannot be sold to new customers in 2014, which would undermine the Marketplace and drive up premiums for millions of hard-working Americans.

The Affordable Care Act created the Small Business Health Care Tax Credit to help small employers of lower wage workers afford a significant contribution towards workers’ premiums. An employer may qualify for a tax credit if it has fewer than 25 full-time equivalent employees making an average of less than \$50,000 a year. To qualify for the Small Business Health Care Tax Credit, an employer must pay at least 50 percent of the premium cost of employee-only (not family) coverage for each of its employees. Starting in 2014, the tax credit is worth up to

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<sup>6</sup> <http://www.gpo.gov/fdsys/pkg/FR-2013-02-25/pdf/2013-04084.pdf>

50 percent of the employer's contribution towards employees' premium costs (up to 35 percent for tax-exempt employers) when coverage is made available through the SHOP. The tax credit will help lower the cost of offering health care coverage. Hundreds of thousands of small businesses have already benefited from the tax credit in 2011.<sup>7</sup>

### **Small Business Health Options Program (SHOP)**

SHOPs in every state offer a single point of entry for small employers and their employees to apply for coverage, and if eligible, the employer may qualify for a tax credit worth up to 50 percent of the employer's premium contribution.

In 2014 and 2015, in most states, the SHOPs will be open to small employers with 50 or fewer full-time equivalent employees. In 2016, the program will be open to businesses with 100 or fewer full-time equivalent employees, and states could choose to expand eligibility to businesses of that size before 2016. In 2014, the Federally-facilitated SHOPs will allow employers to choose one qualified health plan from a range of plans to offer their employees. Many state-based SHOPs are giving employers the option to let their employees choose from a number of plans from multiple insurance companies and in 2015 Federally-facilitated SHOPs will provide that option as well.

Beginning in August, we launched a dedicated call center for employers to learn more about SHOP and to get answers to some of their basic questions on the Affordable Care Act. We continue to receive calls from all 50 states and DC, though we redirect callers from state-based SHOPs to the appropriate state call center.

Where permitted by the state, agents and brokers will play a vital role in the SHOPs, as they do in the small group market today. Agents and brokers act as trusted counselors, providing service at the time of plan selection and enrollment and customer service throughout the year. The SHOP call center is also available to assist agents, brokers, Navigators, and other Marketplace Assistants working on behalf of small employers.

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<sup>7</sup> <http://www.whitehouse.gov/the-press-office/2012/02/16/fact-sheet-president-obama-s-budget-expands-simplifies-small-business-he>

One of the most important tasks is ensuring that small businesses understand the new options available to them. CMS is working closely with the Small Business Administration (SBA), which is leading outreach to small businesses, and with the Departments of Labor and the Treasury. For example, CMS regularly presents during a weekly webinar series called “ACA 101” sponsored by the Small Business Majority and SBA – with dates for the webinar in place through the end of the year. CMS also has extensive information about the SHOP on HealthCare.gov, which is also available on the business aggregation site BusinessUSA.gov.

### **State-based SHOPS**

We are already seeing success with state-based SHOPS. For example, the Kentucky SHOP – known as Kynect - has seen higher than expected enrollment in small group plans. Much of this success can be attributed to the Kynect staff’s positive working relationship with the small business community in Kentucky, including the Chamber of Commerce. The Kynect team met regularly with small employers to answer questions and keep them informed of progress in establishing the Marketplace and how it would impact them and their employees. Kynect also made it a priority to develop a strong working relationship with the state’s agent and broker community.

Several states have decided to operate their own SHOP Marketplaces while the Federal Government operates the Individual Marketplace for that state. We will explore this option with additional states in future years. In addition, nearly all state-based SHOPS have begun to implement employee choice, where employers can choose to select a level of coverage from which their employees select individual plans from a variety of insurance companies, and employers receive one bill and make one payment each month regardless of the number of plans chosen by employees. We have seen success with this model in New Mexico, where hundreds of small employers have already offered SHOP coverage to their employees to date.

### **Conclusion**

For too long, small business owners have struggled to keep up with the ever-rising cost of health insurance for their employees. The Affordable Care Act makes it easier for businesses to find better coverage options and builds on the current employer-based insurance market. The SHOP, combined with new insurance reforms and tax credits provided by the Affordable Care Act,

gives employers new options to provide their employees with high quality, affordable health care coverage. The SHOP allows employers to avoid the confusion that can currently come with looking for coverage, allowing them to make an apples-to-apples comparison between plans and apply using a streamlined application. I look forward to continuing to work with you to improve the health care options for America's small businesses.