

NAR Issue Summary

Insurance / Health Insurance Reform

NAR Committee:

Insurance Committee

What is the fundamental issue?

Before the *Affordable Care Act* (ACA), NAR surveys consistently showed that 28-33 percent of REALTORS® were uninsured in any given year. Consequently, NAR has long advocated for reforms in the health insurance markets that self-employed individuals and small employers depend upon for coverage. Among the legislative approaches that NAR has supported are small business health options plans (SHOP), small business health plans (SBHPs), and association health plans (AHPs). NAR also represented the interests of the REALTOR® community during the ACA congressional debate and subsequent rulemakings.

I am a real estate professional. What does this mean for my business?

REALTORS® and other self-employed individuals can face significant financial burdens when they purchase health insurance or seek needed medical care. The ACA made significant changes to insurance company underwriting and rating practices to address access to health insurance meeting minimum benefit requirements. Rising health care costs, however, continue to create problems for those who are not able to take advantage of the ACA premium tax credits that reduce the cost of coverage for low- and moderate-income households.

NAR Policy:

NAR policy supports improving access to affordable health insurance options for self-employed individuals and small employers. NAR also supports legislative and regulatory changes allowing bona fide trade associations to offer association health plans (AHPs) to all of their members, including the working owners.

NAR's health advocacy efforts are guided by the following public policy principles:

1. The Nation and its health care system are best served by having all citizens covered by health insurance.
2. Health care coverage and/or insurance should be made available to all.
3. Individuals should have health care coverage that is continuous, i.e. allows for no gaps in coverage.
4. Individuals should have the ability to choose their preferred health insurance plan from an array of policy options that offer choices in the scope of covered services and policy costs.
5. Health care coverage should enhance health and well-being by providing



NAR Issue Summary

Insurance / Health Insurance Reform

- preventive health services and chronic disease management services.
6. The health care delivery system must provide cost effective, quality care in an efficient and timely manner in order to be affordable and sustainable for society. Cost containment, therefore, must be a component of any reform effort.
 7. A “single payer” health care system in which the government pays for and allocates health care services should be opposed.
 8. Employers should not be required to offer employee health insurance programs.

Opposition Arguments:

Opponents of federal efforts to address health insurance reforms believe that insurance is the rightful purview of state governments. Since the passage of the *McCarren-Ferguson Act*, state governments have had the responsibility for insurance market regulation.

Legislative/Regulatory Status/Outlook

Affordable Care Act Reform

The Affordable Care Act (ACA) generally reformed insurance company underwriting and rating practices to address access to health insurance meeting minimum benefits requirements. Of particular interest to self-employed individuals, under the ACA, insurance companies can no longer deny coverage to an applicant based on health status, preexisting conditions, past claims, age, gender, line of work or any other factors that the states had allowed. In addition, the ACA limits the factors used to price policies to an applicant's place of residence, age, number of covered individuals, level of coverage chosen and tobacco usage.

Since its passage in 2010, lawmakers have been either defending or fighting the ACA. After the 2016 elections, Republicans controlling both Houses of Congress and the Administration attempted to repeal and replace the ACA. Today, Democrats have assumed the leadership in the House while Republicans retain both the Senate and White House. While there is renewed discussion particularly in the House over how to stabilize and build on the ACA, the government remains divided over a way forward regarding ACA reforms.

Association Health Plans

While Congressional health reform efforts continue, the Administration has issued executive orders directing agencies to improve access to affordable health insurance under current statutory authorities. On June 21, 2018, the Department of Labor (DOL) finalized regulations broadening the definition of “employer” so that “working owners” (i.e., self-employed individuals) and small employers can participate in



NAR Issue Summary

Insurance / Health Insurance Reform

Association Health Plans (AHPs) under the Employee Retirement Income Security Act (ERISA) -- the federal law governing employee benefit and health plans. NAR strongly supports the DOL final rule.

On March 28, 2019, the U.S. District Court for the District of Columbia ruled that several provisions in the final rule were unlawful under the Administrative Procedure Act. This includes the “working owner” provision enabling REALTORS® and other self-employed individuals to join AHPs. The U.S. Department of Justice (representing DOL) has since appealed the district court decision. DOL has also issued guidance clarifying that current AHPs can remain in place until the policy year or contract term expires.

As part of a broad coalition, NAR is vigorously supporting DOL’s appeal of the district court decision. NAR has denounced the lower court ruling as jeopardizing access to affordable AHPs for thousands of member families who signed up through their state or local REALTOR® association. The AHP Coalition is also working to support federal legislation, spearheaded by Sen. Enzi (R-WI) and Rep. Walberg (R-MI), as well as state government decisions to reinstate and codify the DOL final rule.

NAR will continue to protect and promote the DOL AHP final rule, as well as any other legislative/regulatory proposals to improve access to affordable health care options for NAR members.

Current Legislation/Regulation (bill number or regulation)

[S.1170/HR 2294](#), the Association Health Plans Act of 2019
[Dept. of Labor Final Rule](#), Definition of “Employer” Under Section 3(5) of ERISA—Association Health Plans

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