

NAR Issue Summary

Insurance / Health Insurance Reform

NAR Committee:

Business Issues Policy Committee

What is the fundamental issue?

For more than a decade prior to the passage of the *Affordable Care Act* (ACA), NAR surveys indicated that approximately 28% - 33% of REALTORS® were uninsured in any given year. Consequently, NAR has long advocated for reforms in the health insurance markets that the self-employed 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 comprehensive health reform debate and the subsequent ACA rulemaking.

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 the underwriting and rating rules governing individual policies that created barriers to health insurance coverage in the past for some self-employed individuals. 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 reduced the cost of coverage for low and moderate income households.

Prior to the implementation of the ACA reforms, NAR's 2013 Member Profile survey found that 36% of NAR's members had no health insurance coverage. Following implementation of the ACA's individual mandate and the premium tax credit in 2014, the percentage of NAR members without coverage dropped to 22%. In the 2015 and 2016, the percent of uninsured members dropped 2 percentage points each year, falling to 19% in 2016.

NAR Policy:

NAR policy supports changes to underwriting and rating rules that address the access and affordability problems that the self-employed and small employers faced in health insurance markets. NAR also supports legislative and regulatory changes to create a federal framework that would allow bona fide trade associations to offer association health plans (AHPs) to their respective memberships.

NAR's health advocacy efforts are guided by the following policy principles approved by the NAR Board of Directors:

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

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- 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 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

ACA Repeal and Replace

January 2018 marked the beginning of the fifth year for *the Affordable Care Act's* (ACA) revised underwriting and rating reforms, the individual mandate that requires most U.S. residents to demonstrate that they have health insurance coverage that meets the law's minimal benefits requirements, and the employer mandate that requires medium and larger-sized employers to offer health insurance to their employees.

Of particular interest to the self-employed are the ACA's underwriting and rating reforms. Under the ACA, insurance companies can no longer deny coverage to an applicant on the basis of their health status, preexisting conditions, past claims, age, gender, line of work or any other factors that the states have long allowed insurers to routinely deny an application. 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 against the ACA. After the 2016 elections, Republicans controlling both Houses of Congress and the Administration promised to repeal and replace the ACA. However, efforts to repeal significant components of the ACA failed in 2017. Some estimates indicated that repeal would increase the number of uninsured Americans by 14 million one year after enactment and 24 million by 2026. Since then, Congressional leaders have turned to other legislative priorities.

Association Health Plans

Regulatory Actions: While Congressional health reform efforts faltered, the Administration continued to move forward with its administrative efforts to make changes to federal rules governing health insurance.

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On January 5, 2018, The Department of Labor (DOL) issued a [Notice of Proposed Rulemaking](#) (NPRM), in accordance with an Executive Order issued by the President, that would expand access to health coverage through Association Health Plans (AHPs). The rule broadens the definition of “employer” to include “working owners” (sole proprietors/self-employed) under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA is a federal law governing the conduct of employee benefit plans, including employer-sponsored group health plans, which sets minimum standards and protections for participants.

In a [comment letter](#) submitted on March 6, 2018, NAR expressed mostly strong support for the proposed regulation, which modifies and broadens the definition of “employer” to include “working owners,” opens the door to potentially allowing trade associations, including NAR, to offer health insurance coverage to members through the large group insurance market. In the letter to regulators, NAR recommended changes to the proposed eligibility requirements to maximize participation among self-employed real estate professionals. NAR encouraged the Department of Labor to reconsider a provision preventing working owners from participating in an employer health plan if subsidized coverage is available to them through a spouse’s employer; however, that may not always be the most affordable option for a family. The rule is reportedly at the Office of Management and Budget (OMB) for review, typically the last step before a regulation is published.

Legislative Actions: In addition to its regulatory actions, on March 20, 2018, NAR testified before the House Education and Workforce's Subcommittee on Health, Employment, Labor and Pensions in support of current regulatory efforts to expand association health plans (AHPs). At the hearing, which focused on the Department of Labor’s proposed AHP rule, Mike McGrew, a REALTOR® for more than 30 years in Lawrence, Kansas expressed NAR’s strong support for the rule’s provisions to allow self-employed individuals with no employees to participate in association health plans.

In his testimony, McGrew outlined how the rule opens the door to potentially allowing associations, including NAR, to offer health insurance coverage to its members through the large group insurance market, which usually offers more coverage options at lower costs than the individual insurance market. NAR believes that allowing the self-employed to access health coverage through an AHP creates the potential to improve members’ ability to find comprehensive health coverage at a more affordable price.

[Read the comment letter to the Department of Labor](#)

Read NAR's [Congressional testimony](#).

Short-term Health Insurance Policies

NAR recently submitted [comments](#) to the Department of Health and Human Services’ [Notice of Proposed Rulemaking](#) amending the definition of short-term, limited-duration insurance to extend the maximum period from less than three months to no longer than twelve months. In the comment, NAR advocated for more affordable health insurance options for consumers and specifically REALTORS® purchasing in the individual insurance markets that have experienced rising costs. NAR also expressed concern regarding residual market impact and the support for longer-term coverage plans through the Association Health Plan (AHP) proposal, another effort of the Administration aimed at improving choices for working owners/independent contractors.

On August 3, 2018, The Department of Health and Human Services (HHS) issued a [final rule](#) expanding short-term, limited-duration health insurance (STLDI), a type of health insurance typically used to fill gaps in coverage when individuals are transitioning between policies, such as in between jobs. The final

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rule would be effective October 2, 2018.

NAR will continue to advocate for regulatory and legislative principles that promote universal access to high-quality, affordable insurance options and remove burdensome regulations that drive up costs.

Current Legislation/Regulation (bill number or regulation)

[H.R. 1101](#), the *Small Business Health Fairness Act*

[Proposed Rule](#) - Dept. of Labor, Definition of “Employer” Under Section 3(5) of ERISA—Association Health Plans

Legislative Contact(s):

Marcia Salkin, msalkin@realtors.org, 202-383-1092

Ken Wingert, kwingert@realtors.org, 202-383-1196

Regulatory Contact(s):

Christie DeSanctis, CDeSanctis@realtors.org, 202-383-1102