

### 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 has also represented member interests during ACA congressional debates and 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 be an issue 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:

Supports improving access to affordable health insurance options for self-employed individuals and small employers, including allowing bona fide trade associations to offer association health plans (AHPs) to NAR members. 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 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) reformed insurance company underwriting and rating practices to address access to health insurance meeting minimum benefits requirements. 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. The ACA also 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 2010, lawmakers have been either defending or fighting the ACA depending largely on which party controls Congress and the White House. While the debate has continued, Congress remains divided over a way forward on most ACA reforms.

#### Association Health Plans (AHPs)

As part of a broad coalition, NAR continues to vigorously advocate for AHPs before Congress, federal agencies, and the Courts. Here is a brief chronology of NAR's advocacy efforts to date:

- On June 21, 2018, the DOL finalized regulations broadening the definition of “employer” so that “working owners” (i.e., self-employed individuals) and small employers can participate in Association Health Plans (AHPs) under the Employee Retirement Income Security Act (ERISA) -- the federal law governing employee benefit and health plans. NAR strongly supported 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. The ruling includes the “working owner” provision that had enabled working owners to join AHPs. The U.S. Department of Justice (representing the DOL) appealed the district court decision and NAR supported the appeal.
- On November 14, 2019, a three-judge panel of the D.C. Circuit Court of Appeals heard oral arguments in DOL's appeal of the district court decision. [NAR filed multiple legal briefs supporting the DOL appeal](#) while denouncing the lower court ruling which overturned access to affordable AHPs for thousands of member families who signed up through their state or local REALTOR® association.
- On December 20, 2023, the [DOL proposed to rescind the 2018 AHP rule](#). NAR is disappointed with the latest proposal and has filed detailed comments laying out our strong objections and setting the record straight that AHPs offer high-quality, low-cost health coverage options to employees of small businesses and self-employed individuals (i.e., "working owners"), including real estate professionals.

NAR is also pursuing legislation to restore access to AHPs for small employers and self-employed

individuals:

- On April 25, 2023, Rep. Walberg (R-MI) introduced the NAR-supported AHP Act (HR 2868).
- On June 21, 2023, the House passed the AHP Act's provisions as part of a broader measure called the CHOICE Arrangement Act (HR 3799).
- On October 30, 2023, Sen. Braun (R-IN) introduced related legislation (S. 3167), which currently awaits Senate consideration.

NAR will continue to advocate for public policies that improve access to affordable health care options for both self-employed individuals and small employers.

### Current Legislation/Regulation (bill number or regulation)

[HR 2868: Association Health Plans Act](#)

[HR 3799: CHOICE Arrangement Act](#)

[S. 3167: MEWA Act](#)

[DOL Proposal to Rescind the 2018 AHP Rule](#)

### Legislative Contact(s):

Austin Perez, [aperez@nar.realtor](mailto:aperez@nar.realtor), 202-383-1046

### Regulatory Contact(s):

Austin Perez, [aperez@nar.realtor](mailto:aperez@nar.realtor), 202-383-1046