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ON

**THE SMALL BUSINESS HEALTH OPTIONS PROGRAM:
IS IT WORKING FOR SMALL BUSINESSES?**

BEFORE THE

**U.S. HOUSE COMMITTEE ON
SMALL BUSINESS**

DECEMBER 11, 2013

Statement of Gary Cohen on

“The Small Business Health Options Program: Is It Working for Small Businesses?”

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Chairman Graves, Ranking Member Velázquez, thank you for the opportunity to discuss the many benefits that the Affordable Care Act will provide for small businesses. The Affordable Care Act is transforming the insurance market for small employers, making it easier for them to find and purchase employee health coverage. Qualified small employers can now purchase coverage for their employees using the Small Business Health Insurance Options Program (SHOP), and many small businesses will be able to receive a more generous tax credit in 2014 if they offer their employees a qualified health plan through the SHOP in their states.

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.¹ 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 than larger firms, 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 priced so high that it is out of reach for most businesses just because someone gets sick.

Small Business Health Care Tax Credit

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

¹http://www.commonwealthfund.org/~media/Files/Publications/In%20the%20Literature/2006/May/Benefits%20and%20Premiums%20in%20Job%20Based%20Insurance/Gabel_benefitspremiumsjobbased_925_itl%20pdf.pdf

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. For tax years starting in 2014, the tax credit is worth up to 50 percent of the employer's contribution towards employees' premium costs when coverage is made available through the SHOP. Since it first became available in 2010, the Small Business Health Care Tax Credit has been worth up to 35 percent (25 percent for tax-exempt employers) of employer-paid premium costs, and has provided hundreds of thousands of small businesses more than \$1 billion in tax credits.

Small Business Health Options Program (SHOP)

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 and one qualified dental plan from a range of plans to offer their employees. There are a total of 66 qualified health plan issuers offering 914 plan options, and 106 qualified dental plan issuers offering 511 plan options in states with a Federally-facilitated SHOP. Most 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 states that are operating their own 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. More than 70,000 agents and brokers have already been trained to assist consumers in the Federal Marketplace—including many who have completed the SHOP-specific course. The SHOP call

center is also available to assist agents, brokers, Navigators, and other Marketplace approved assisters working on behalf of small employers.

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.

Federally-Facilitated SHOPS

CMS recently announced changes to ensure that small businesses in states with a Federally Facilitated SHOP Marketplace can take advantage of SHOP coverage and the Small Business Health Care Tax Credit as soon as possible. Specifically, for 2014, small employers can enroll their employees in qualified health plan coverage with the help of an agent, broker, or insurer that sells a qualified health plan in the Federally-facilitated SHOP and that has agreed to conduct enrollment according to HHS standards.

This process is similar to how most small employers get insurance today. Although small employers will need to receive a determination of SHOP eligibility from the Federally-facilitated SHOP in order to take advantage of the Small Business Healthcare Tax Credit, they can enroll their employees in a qualified health plan through the new process before applying for or receiving the eligibility determination. Even if the Federally-facilitated SHOP later determines that the employer was not eligible to purchase SHOP coverage, the employer and employees could generally still maintain their coverage in the qualified health plan.

The insurer, agent, or broker that helps the small employer enroll its employees in SHOP coverage can also help the employer apply for SHOP eligibility. Small employers can still use HealthCare.gov to download a SHOP employer application, or to see information on plan

options, including which insurance companies offer SHOP qualified health plans in their area. They can also get help through the toll-free SHOP Employer Call Center.

All employers that meet the definition of a small employer in CMS regulations, that offer at least all their full-time employees coverage in a SHOP qualified health plan, and that have a principal business address or worksite in the SHOP's service area are eligible to offer their employees a SHOP qualified health plan. And all small businesses can of course continue to purchase coverage for their employees, including coverage in qualified health plans, in the small group insurance market outside the SHOP. In addition to meeting the rules for the credit, an eligibility determination from the SHOP in 2014 will be needed for an employer to claim the expanded Small Business Health Care Tax Credit at the end of the tax year. For employers that choose the Federally-facilitated SHOP, CMS will continue its work with the IRS to ensure that small businesses that are otherwise eligible to receive the Small Business Health Care Tax Credit can receive it.

State-based SHOPS

The change in states with a Federally-facilitated SHOP Marketplace does not affect the process for getting SHOP coverage in states running their own SHOP Marketplace. We are already seeing success with State-based SHOPS.

Some states have decided to operate their own SHOP Marketplaces while the Federal Government operates the individual market 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 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.

Next Steps for Small Businesses

If small businesses want their employees' coverage to begin on January 1, the current enrollment deadline for the Federally-facilitated SHOP will be extended to December 23. States operating

their own SHOPS are permitted to establish their own dates, no earlier than December 15, 2014, for coverage effective January 1, 2014.

It is important to remember that small businesses can obtain and offer coverage through a SHOP Marketplace at any time during the year. Generally, if all employee enrollments for a group are submitted between the 1st and 15th day of the month, group coverage begins the first day of the next month. Information on the plans available in states with a Federally-facilitated SHOP Marketplace has been available on HealthCare.gov since October 1, 2013, and as of December 1, 2013, employers have been able to go online and enter the ages of their employees to get more precise premium information, and compare available medical and dental plans in their area. We encourage small businesses to check HealthCare.gov in the coming months for new tools and updated information.

In addition, we anticipate that small employers throughout the country will have online access to the SHOP Marketplace by November 2014, when small employers in those states with Federally-facilitated SHOPS will for the first time be able to offer their employees a choice of plans from multiple issuers while making a single monthly payment, for coverage taking effect on or after January 1, 2015. Thus, by 2015, small employers in all states will have access to employee choice and premium aggregation services—a key value proposition of SHOP Marketplaces.

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 were 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 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.² 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.

This trend continued in 2013: according to the National Survey of Employer-Sponsored Health Plans,³ conducted annually by Mercer, growth in the average total health benefit cost per employee slowed to just 2.1 percent in 2013. While cost growth has slowed among employers of all sizes, it was lowest for small employers in 2013. Among those with 10 to 499 employees, average cost rose by only about 1 percent.

The rate review program works in conjunction with the 80/20 rule (also called the Medical Loss Ratio rule),⁴ 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 small group market. 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.⁵ Additionally, 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.⁶

² Rate Review Annual Report, September 2013.

http://aspe.hhs.gov/health/reports/2013/acaannualreport/ratereview_rpt.cfm

³ <http://www.mercer.com/press-releases/1565095>

⁴ 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>

⁵ 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>

⁶ <http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/2012-mlr-rebates-by-state-08-01-2013.pdf>

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 limit has been increasing since September 23, 2010, and for plan 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 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. 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 issuers must pool coverage for most small firms within a state into a single risk pool in 2014, small businesses will be shielded from the impact on premium rates of one employee becoming ill.

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, will cover essential health benefits⁷ 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

⁷ <http://www.gpo.gov/fdsys/pkg/FR-2013-02-25/pdf/2013-04084.pdf>

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.

The Affordable Care Act provided an opportunity for insurance companies to maintain grandfathered plans as long as they want to in the future. These grandfathered plans may, but do not have to, comply with many of the market reforms included in the Affordable Care Act. Since passage of the Affordable Care Act in 2010, many issuers have continued to renew employers' grandfathered plans under this provision. Additionally, issuers that renew plans prior to January 1, 2014, are generally able to renew those plans without having them comply with the new protections that take effect for plan or policy years beginning on or after January 1, 2014.

The Administration also announced last month that small employers have more time to transition to the new insurance market with better coverage. Specifically, insurers can offer small businesses the option to renew their 2013 health plans between January 1 and October 1, 2014, without change, allowing them to keep their plans, where allowed by State regulators, if the insurer meets certain notice requirements. Insurers interested in continuing to offer these plans 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 employers what protections (including essential health benefits, annual dollar limits, and out-of-pocket maximums) they are giving up to keep the plans they have.

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. I look forward to continuing to work with you to improve the health care options for America's small businesses.