

**Small business needs Congress to replace the Patient Protection and Affordable Care Act (PPACA) with real healthcare reform that helps address the number-one problem small businesses face – the high cost of healthcare. Here, NFIB outlines some of the components that ought to be part of a replacement strategy.**

## **Why is a replacement strategy necessary for small business?**

For over two decades, small businesses have cited rising health insurance costs as their number-one problem. Rising healthcare costs explain why their employees' wages have stagnated. Up through 2010, NFIB advocated strongly for healthcare reform, but always insisted that meaningful reform would have to lead to lower costs. On this score, PPACA failed, as evidenced by the rapid rise in premiums following the law's enactment. Small business needs real reform that deals with costs. Here are one dozen reforms with which to begin.

## **Tax reforms**

### **1. Tax breaks in the employer-sponsored market ought to be available in the individual market.**

The U.S. Tax Code favors employer-sponsored insurance and discourages individual purchases. Employees can only use pre-tax dollars for insurance if their employers choose, purchase and administer their insurance policies. This asymmetry generates well-documented problems. (1) The individual market is small. (2) Administering health insurance distracts employers from their core businesses. (3) The employer/insurance nexus creates "job lock," where employees cannot leave a job for fear of losing health insurance. (4) With employees unable to shop around, insurance is less competitive. (5) Differences in tax treatment should not determine whether a person secures health insurance in the workplace or on their own.

**2. The tax treatment of insurance purchased by the self-employed should be equivalent to the treatment of employer-sponsored coverage.** Self-employed individuals do not receive the same tax treatment as individuals who receive health insurance through their employers. While the self-employed can claim a deduction for the cost of purchasing their own health insurance, the tax benefit is not equal to the tax exclusion for employer-provided coverage.

### **3. Tax and insurance regulations should allow for a defined contribution option for employers.**

This would make health insurance simple for employers and would give employees a broad range of choices. Small businesses generally lack health insurance expertise, human resource departments and market power. They would like the option of contributing dollars to employees' health insurance without actively choosing, purchasing or managing the plans. With defined contribution health insurance, an employer could contribute pre-tax funds toward employees' insurance. (This amount should remain deductible to the employer.) Employees could then purchase their own insurance policies.

## **Insurance purchasing reforms**

### **4. Insurance markets need an adequate information structure for consumers to make intelligent choices; this demands transparent and easily comparable measures of cost, options and quality.**

Currently, comparative data are difficult or impossible to obtain. At present, neither consumers nor healthcare providers have adequate information-based tools to drive costs down. In other industries – computers, automobiles, finance, for instance – information technology allows consumers to make informed, intelligent choices. Healthcare needs to catch up with these industries in assembling comprehensive data with user-friendly interfaces.

### **5. Public and/or private exchanges should be widely available; states and other entities should have adequate flexibility to experiment with different models.**

Centralized portals can give consumers a seamless venue for comparison shopping, purchasing, and conducting business with insurers. It is vital that states and other entities have the ability to experiment with various exchange models. The goal should always be a purchasing environment with enough insurance carriers to unleash competitive forces.

**Healthcare costs have troubled small business for decades.**

**Equal tax treatment in the employer-sponsored and individual markets.**

**Tax parity between the self-employed and other small businesses.**

**Defined contribution health insurance options.**

**Information technology to make insurance prices and quality transparent.**

**Exchanges for efficient employer and individual insurance purchases.**

**Interstate markets for health insurance.**

**6. Small businesses and individuals should be able to pool risks and purchase insurance across state lines.** Large businesses, labor unions and governments generally self-insure, so under the federal ERISA law, they can pool their risks across state lines. This allows them to develop larger, more stable risk pools, thereby lowering costs and reducing uncertainty. The fully-insured market (mostly small businesses and individual purchasers) has no such ability to pool risks across state lines. Another virtue of an interstate market is that it provides a check on overzealous state regulations by offering out-of-state options to purchasers.

**Options for developing insurance pools.**

**7. Employers should be able to voluntarily join with other employers to form larger risk pools and purchasing arrangements.** Properly crafted, Small Business Health Plans legislation would enable groups of employers to band together to form larger, more stable risk pools.

### **Market access and choice reforms**

**Access to insurance for those with pre-existing conditions.**

**8. Health insurance reform ought to enable individuals with pre-existing conditions to obtain and maintain health insurance.** People with pre-existing conditions often have difficulty obtaining affordable insurance. The individual market can be a difficult place to secure health insurance if an individual has a pre-existing condition or illness. Reforms should be in place to mitigate these practices. Whichever means is adopted should not discourage employers from hiring individuals with pre-existing conditions.

**Insurance portability for individuals who maintain coverage.**

**9. People should be able to move from one job to another, between a job and no job, and from state to state without losing insurance coverage or encountering excessive cost increases for changing.** Insurance portability has always been a problem in a system dominated by employer-sponsored insurance. Changing jobs or moving sometimes entailed lapses in coverage or, potentially, loss of coverage altogether. Insurance laws should make it possible for those who maintain their coverage to continue doing so after changing jobs or stopping work altogether.

**Insurance that fits individuals' needs.**

**10. Laws should permit individuals broad latitude in using consumer-driven tools such as high-deductible policies, HSAs, HRAs and FSAs.** For many consumers and small businesses, a high-deductible policy can be an attractive way of managing risks and holding down costs. Premiums are less expensive because insurers deal with less paper flow and because high-deductible policies give patients incentive to reduce unnecessary procedures. Pre-tax accounts, such as HSAs, HRAs and FSAs help prepare consumers for expected and unexpected expenditures before the insurance kicks in. These tools encourage consumers to take an active role in managing their expenses and risks.

**Wellness options.**

**11. Employers and insurers ought to be able to offer consumers price breaks and other incentives to encourage them to maintain their health.** Companies like Safeway have made headlines by incentivizing their employees to engage in healthy lifestyles and prudent preventive and wellness care. Incentives could include price breaks on health insurance for those who engage in healthy behaviors or participate in company-endorsed wellness programs. Most importantly, businesses should be free to tailor such incentives to their specific workforces.

### **Tort reform**

**Malpractice reform.**

**12. Medical liability laws should limit non-economic damages, rationalize economic penalties for malpractice, and offer options for arbitration and no-fault malpractice insurance.** Through excessive malpractice judgments, we penalize good doctors practicing good medicine, when their patients happen to experience bad outcomes. At the same time, most patients who suffer actual acts of malpractice are never compensated. This incoherent system raises costs and damages doctor-patient relationships.

### **What other vital elements are we not discussing in this document?**

**Reform will also have to tackle entitlements and delivery systems.**

Small business desperately needs healthcare reforms that lead to lower costs. This document has outlined some private health insurance market reforms. It has not touched on two other areas that should be part of any meaningful reform – entitlements and medical delivery systems.