

United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

WASHINGTON, DC 20510-6350

TELEPHONE: (202) 224-5175 FAX: (202) 224-5619

March 18, 2013

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Sebelius:

On March 1, 2013, the U.S. Department of Health and Human Services (HHS) issued a proposed rule to delay, until 2015, the implementation of the employee choice model and the premium aggregation function as requirements for all Small Business Health Option Programs (SHOPs), as required under the *Patient Protection and Affordable Care Act* (ACA). Prior to enactment of the ACA, according to some estimates, small businesses would have gone from spending \$156 billion to \$2.4 trillion over the next 10 years without health care reform. To address the skyrocketing costs of health care for small businesses, Congress included several provisions, including the SHOPs exchanges, to help these businesses provide affordable health coverage to their employees. Delaying the implementation of these requirements, as specified under the law as Congress intended, will serve to prolong and exacerbate health care costs that are currently crippling America's nearly 29 million small businesses.

Under Section 1311(b)(1)(B) of the ACA, by January 1, 2014, states must establish SHOPs "designed to assist qualified employers in the state who are small employers in facilitating the enrollment of their employees in qualified health plans offered in the small group market in the state." This provision also extends to states utilizing Federally-facilitated SHOPs (FF-SHOPs). Additionally, under Section 1312(a) of the ACA, qualified employers may offer qualified employees a choice among all Qualified Health Plans (QHPs) at a level of coverage chosen by the employer.

Currently, for many small businesses, obtaining price quotes is difficult and time-consuming. SHOP exchanges, as included in the ACA, were intended to decrease the administrative burden, giving employers and employees an easier way to find coverage, and provide one-stop shopping for small businesses and their employees. Through the exchanges, information about premiums, benefits, quality, and consumer satisfaction will be available in a single location to facilitate comparison shopping and encourage insurers to offer their best rates. Additionally, by including price, quality and other comparison data in a single location, SHOP exchanges will help to create choice and competition amongst QHPs available through the exchange.

The proposed rule would delay until 2015 the requirement that SHOP exchanges offer employee choice of health plans. By allowing employers to choose a single group

plan for all of their employees, rather than allowing the employees to determine the best plan within a metal level for themselves and their families, HHS is proposing to remove one of the key “employee choice” provisions that makes the SHOP exchanges desirable in the first place. In the same proposed rule, HHS also proposes that exchanges that take the above approach – which includes at a minimum all FF-SHOPs – need not provide employers with aggregated premiums for their employees for 2014.

These proposed delays leave unclear what advantages the SHOP exchange offers employers and employees over the non-SHOP small group market. In fact, they may increase the liability for penalties faced by small businesses. Furthermore, by reducing participation in the SHOP exchanges and therefore driving more people toward individual coverage, the delays may weaken the strong employer market that is essential for the success of many of the important insurance reforms included in the ACA.

The SHOP exchange was created to be a vital tool to assist small businesses in providing affordable health insurance for their employees, and any delay in implementing this important section of the ACA is a delay that America’s small businesses simply cannot afford. I urge you to reconsider the proposed rule, so that both Congress and the administration can deliver on the promise we made to small business owners and their employees when we passed this law three years ago.

Thank you for your consideration in this matter, and I hope we can work together to ensure timely implementation of these important provisions of the ACA.

Sincerely,



Mary L. Landrieu
Chair