

Washington, D.C. – April 13, 2018

Small businesses need health-care help and DOL can deliver it

By: *Bernie Marcus*

Small business sentiment is currently at a [record high](#), and for good reason. The Trump administration recently delivered a windfall in small-business tax cuts. It has also provided long-overdue regulatory certainty and real economic growth, on which small businesses depend.

Given that small businesses are the backbone of the American economy, providing two-thirds of its new jobs, their success is shared by everyone.

But there is still one gigantic hurdle facing small businesses: skyrocketing health-care costs due to ObamaCare. A forthcoming rule by the Department of Labor to expand association health plans (AHPs) will finally offer them some relief.

According to a recent nationwide [survey](#) of small-business owners conducted by the Job Creators Network, three-quarters of respondents are concerned about high health-care costs. That's no surprise.

Small businesses often don't have the same profit margins to absorb rising health-care costs as their big-business competitors. Nor can they achieve their economies of scale or risk mitigation when it comes to negotiating rates.

As a result, the number of small businesses that provided health-care coverage for their employees [fell by about one-third](#) between 2008 and 2015 as costs rose.

Help is on its way. Recognizing the health-care challenges small businesses face, [President Trump](#) issued an executive order last fall directing his Department of Labor to expand AHPs.

These health plans allow small-business owners to band together to negotiate lower rates and mitigate risk. But they have been nearly regulated out of existence in recent years.

The comment period on DOL's proposed expansion ended over a month ago, meaning a final ruling should come out soon. State governors and attorneys general must support this expansion if they claim to support small businesses and their employees in their states.

Anything less than full support means they are

against the success of small businesses and the pursuit of the American Dream.

The new rule will rejuvenate AHPs in two main ways. First, it will move their oversight from the state level to the federal level under the DOL, putting them on a level playing field with big business health-care plans.

This move will allow these plans to avoid the patchwork of onerous state regulations and operate across state lines, resulting in more choices and lower costs.

The rule will also relax pointless industry classification standards regulating who is allowed to join AHPs. At the moment, only those businesses with a "commonality of interest" are allowed to form an AHP, and only if the association's primary purpose isn't to offer health insurance.

These are arbitrary supply-side restrictions that artificially reduce the number of AHP options and need to be relaxed. For instance, being a small business, including a sole-proprietor, should be enough to satisfy the commonality requirement.

There are two main objections to this proposed rule. One is practical and one is political.

The first is that these plans won't offer enrollees enough protections from fly-by-night operators who take premiums and don't deliver payouts when needed. This is a reasonable worry, given several high-profile examples of this occurring around the turn of the century.

But this concern can easily be overcome by adding a "safe harbor" provision to the rule, requiring that AHPs carry a certain amount of capital that actuaries deem necessary to cover payouts in case of an emergency.

The other concern about expanded AHPs is purely political. Opponents worry that it will hurt ObamaCare because it will attract relatively healthy ObamaCare participants. Fewer healthy people in ObamaCare means higher premiums for those who remain, leading to even fewer healthy participants.

But this worry just demonstrates the need for alternatives to the ObamaCare health-care monopoly in order to give consumers protections from its potential death spiral.

The Trump administration has successfully addressed over-taxation and over-regulation. But despite Congress' best efforts last year, health care remains a sticking

point. Expanded AHPs will provide the health-care relief small businesses and their employees need, improving business and economic sentiment even further.

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