Health Care Reform

NACD Position

NACD supports legislation that serves to highlight, delay, amend, and repeal problematic provisions in the Patient Protection and Affordable Care Act (PPACA). NACD supports efforts to:

- Prevent small business health insurance premium cost increases by amending the health insurance tax (HIT) that will cause insurers to pass the tax along to consumers;
- Replace the new 30-hour per work week definition of full-time employee with 40 hours per work week to promote increased hiring; and
- Repeal the employer mandate provision that incentivizes employers to employ fewer than 50 full-time equivalent (FTE) employees.

Policy Background

The PPACA is a massive law that will continue to unfold over the next several years. Its complex and unclear provisions have created an atmosphere of uncertainty in the workplace. The PPACA includes a $145 billion HIT that will fall especially hard on small businesses. The HIT, which is levied on health insurance companies, will be passed on to consumers in the fully insured marketplace, where 88% of small businesses, their employees, and the self-employed purchase their coverage. This new tax will raise insurance costs for small businesses struggling to survive in the current economy and is contrary to the goals of health care reform. Additionally, the employer mandate requires businesses with 50 or more full-time or FTE employees to offer qualified, "affordable" health insurance to 95 percent of full-time employees or pay costly penalties. The law defines full-time employee as an employee who works an average of 30 hours per week.

Health Care Reform in the 115th Congress

On May 4, 2017, the U.S. House of Representatives passed H.R. 1628, the American Health Care Act (AHCA) to repeal most of the provisions of the PPACA and replace it with a more market-friendly law. Specifically, the bill would repeal the employer mandate, the Cadillac tax, tax increases on health savings accounts, and limitations on employer contributions to flexible savings accounts. Much of the controversy surrounding passage of the House repeal bill was centered on the issue of those with pre-existing conditions. The compromise between House Republicans would allow states to request a waiver from requiring pre-existing condition coverage if the state can prove it will reduce the cost of coverage or increase the number of people who are covered. For those in states that receive a waiver, the bill dedicates a separate fund to reduce premiums for patients with pre-existing conditions.

The U.S. Senate released several versions of their own bill, the Better Care Reconciliation Act. Many of the versions were similar to the AHCA in that they repeal several of the ACA's taxes and mandates as well as maintain provisions protecting individuals with pre-existing conditions. However, the Better Care Reconciliation Act would phase out Medicaid expansion sooner than the AHCA and cut back on eligibility requirements for Medicaid in the future. Both moderate and conservative members of the Senate Republican party came out against the proposals, and the Senate was therefore unable to pass any legislation before the reconciliation deadline. Moving forward, several Senate committees have stated their intent to hold hearings on bipartisan approaches to stabilize the individual insurance markets. Neither the House or Senate bills passed both chambers of Congress.

Association Health Plans
NACD supports the House-passed H.R. 1101, the Small Business Health Plans Act, which passed by a vote of 233-179. The bill would expand access to Association Health Plans (AHPs) for employers who are members of a bona fide trade association. Specifically, the bill would allow small businesses to pool together across state lines through their membership in an association to purchase health care coverage for their employees. NACD also supports S. 1818, the Small Business Health Plans Act, similar legislation recently introduced by Senator Mike Enzi (R-WY).

On October 12, 1017, President Trump signed an executive order that directed the Department of Health and Human Services, the Department of Labor (DOL), and the U.S. Department of the Treasury to take steps to increase competition and lower costs through expanding access to lower cost, high quality health care options. Specifically, the order will require the DOL to expand access to AHPs. On June 21, 2018, the DOL issued a final rule aimed at expanding the definition of employer, more broadly defining the "commonality of interest" requirement and removing certain restrictions on the creation of an AHP. The rule does not impact state regulations regarding AHPs, which will make creating a national plan more difficult and may limit who can participate, as many states have laws prohibiting AHPs.