

# Association Health Plans:

## THE HEALTHCARE SOLUTION FOR SMALL BUSINESS?

by Maya Grassi, JD Candidate

CONCERNS OVER AFFORDABLE health care continue to attract voter attention and spur political debate during this election year. The small business community, responsible for creating 75 percent of net new jobs in 2003, cites the excessive cost of providing health insurance to employees as a major burden. This dilemma has prompted politicians, health insurance providers, and small businesses to evaluate the utility of current health care law and to explore viable alternatives.

Most agree that reforms are necessary, however the problem is complex, and proposed amendments to federal law have sparked controversy. One such amendment, The Small Business Health Fairness Act (S.545), would permit small businesses to form Association Health Plans (AHPs). If enacted, small businesses would be allowed to pool together nationally, in AHPs, to collectively purchase health insurance.

AHPs are not currently a feasible option for small businesses. Significant variations in state insurance regulations make it difficult, and often impossible, for small businesses to form associations that cross state borders. Unlike small business AHPs, unions and large employer health plans are specifically exempted from state regulation and oversight. The Employee Retirement Income Security Act of 1974 (ERISA) allows these entities to operate under uniform federal supervision. ERISA authorizes the Department of Labor (DOL) to regulate health insurance plans affiliated with large employers and unions. Subsequently, large employers and unions are allowed to bypass complicated state regulations which tend to drive up insurance costs, and thus offer their employees affordable health insurance plans.

If enacted, the Small Business Health Fairness Act would exempt small business AHPs from state requirements, allowing small businesses to organize across state borders under uniform federal regulation. Small businesses could approach health care providers as a group, rather than as individuals. Presumably, joining together in groups will provide small businesses with better prices, reduced administrative costs, and enhanced access to health care options.

Advocates maintain that the proposed legislation is a remedy for the unfair advantage large employers and unions currently enjoy over small businesses in health care. Proponents assert that federal regulation of AHPs will reduce health insurance premiums for small businesses, insure more small business

employees and their families, and boost competition in the health care market. In his 2004 State of the Union address, President Bush reaffirmed his Administration's full support of the AHP legislation, and urged Congress to do the same.

Critics, on the other hand, contend that major flaws in the legislation will actually restrict small businesses' access to quality, affordable health care options. Opponents emphasize that if enacted, the proposal would disrupt the health care market and increase insurance premiums, unpaid claims, and unfair practices that could discriminate against high risk insurance populations. Many insurance companies, medical associations, and small business organizations also claim that federal oversight lacks sufficient funding, staffing, and resources necessary to prevent fraud. These critics insist that current state oversight of AHPs is much more comprehensive and effective in regulating insurance standards.

The following articles present opposing viewpoints on the Association Health Plan legislation. Senator Olympia Snowe (R-ME), co-sponsor of the Small Business Health Fairness Act, outlines her support for AHP legislation. Roderick DeArment, a partner with Covington and Burling, discusses arguments against the legislation.

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