

# OBAMACARE AND THE SELF-EMPLOYED: WHAT ABOUT US?

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## HEARING

BEFORE THE

### SUBCOMMITTEE ON CONTRACTING AND WORKFORCE

OF THE

### COMMITTEE ON SMALL BUSINESS

### UNITED STATES

### HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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None.	
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None.	



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THURSDAY, MARCH 6, 2014

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON SMALL BUSINESS,  
SUBCOMMITTEE ON CONTRACTING AND WORKFORCE,  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 11:30 a.m., in Room 2360, Rayburn House Office Building. Hon. Richard Hanna [chairman of the subcommittee] presiding.

Present: Representatives Hanna, Huelskamp, and Meng.

Chairman HANNA. Good morning. Barely, it is 11:30. Thank you for being here.

I would like to thank each of our witnesses for taking time out of their schedules to provide testimony on the ways the Affordable Care Act is affecting the self-employed. We have an excellent panel, and I look forward to hearing their testimony and the discussion to follow.

According to the Office of the Chief Counsel for Advocacy of the United States Small Business Administration, small businesses represent 99.7 percent of all businesses, employ 49 percent of all workers in the private sector, and account for 42 percent of the private sector payroll in the United States. Self-employed folks make up a significant portion of the businesses. According to the National Association for the Self-Employed, over 77 percent of small businesses in the United States are self-employed businesses.

As enacted, ObamaCare, the Affordable Care Act, requires large employers to offer full-time employees the opportunity to enroll in an employer-sponsored health care plan or pay a penalty. The law also requires individuals to enroll in health care insurance, either on their own or through the plans offered by their employer or pay a penalty. These requirements are referred to as the “employer mandate” and the “individual mandate.”

While the administration has delayed the employer mandate twice, it has not delayed the individual mandate which became effective on January 1st. Typically, the self-employed purchase health insurance on the individual or nongroup market and would be required to carry coverage via the individual mandate.

While meeting with my constituents and reading the witnesses’ testimony, it was clear to me that the Affordable Healthcare Act, ObamaCare, is causing significant difficulties for self-employed individuals and small businesses in general. General confusion, higher prices and shrinking provider networks are a few of the problems we have consistently heard about.

Earlier this year, the National Small Business Association released a study providing evidence that the healthcare law is having a significant impact on small businesses. Among the key findings were that 91 percent of respondents experienced increases in their healthcare plan at their most recent renewal, and 33 percent said they are purposefully not growing as a result of the healthcare law. Perhaps most significantly, the survey reported that the average monthly per-employee cost of healthcare insurance premiums for small businesses is \$1,120, nearly double what it was five years ago.

While the NSBA survey was for small businesses in general, a recent NASE survey specifically queried self-employed individuals and micro businesses. The survey found that nearly 60 percent of respondents believe there is a “low” or “very low” chance they will be able to secure affordable and comprehensive coverage in 2014. Other key findings were that only 9 percent of those available to visit the website [healthcare.gov](http://healthcare.gov), reported they had successfully enrolled in healthcare insurance plans for 2014, and almost 17 percent of those who responded indicated that they were foregoing healthcare insurance altogether in 2014 due to the cost.

Just two weeks ago, the administration’s own Center for Medicare and Medicare Services released a report predicting that the healthcare law could cause premiums to increase for nearly two-thirds of small- to medium-sized businesses. The report stated that 11 million individuals will experience increases in premiums as a result of the healthcare law.

Clearly, the Affordable Healthcare Act is causing significant disruptions for American small businesses. What I hope to do today is identify the specific issues that are most critical to the self-employed and discuss potential solutions.

Again, I thank you all for being here. I now welcome Ms. Meng, our ranking member for her opening statement.

Ms. MENG. Thank you, Mr. Chairman.

The Affordable Care Act introduced numerous reforms to the insurance market for both individuals and businesses. In this Committee, we focused on the effect the law has on small business owners. Today’s hearing will allow us to turn our attention to the self-employed. Under the law, these business owners have access to the individual marketplace rather than the shop exchanges. Regardless of which market they used to obtain health insurance, these entrepreneurs remain integral to our global competitiveness, innovation, and growth, and that is why considering how the healthcare law affects this group is critical to their success and the nation’s continued recovery.

Prior to the law, the self-employed had to rely primarily on catastrophic plans. These limited plans provided very basic coverage, and for that reason many were eliminated. The individual exchanges took their place. This marketplace provides guaranteed health benefits and maximizes the ability to effectively pool participants, resulting in more competition and lower costs. Over six million uninsured, self-employed individuals will shop and purchase health insurance on these new markets. In fact, the most recent enrollment data indicate that roughly four million people have now

signed up for a private health insurance plan through the marketplaces since October 1st.

But enrollment has not occurred without a few hiccups. Like small businesses with employees, the self-employed have faced some questions in their attempts to enroll. This hearing will give us a chance to hear some personal experiences with enrollment and gather information on how it can be improved.

While we know cost is one issue, the ACA is acting to balance premiums for those who once paid higher rates just for having a preexisting condition. Through modified community rating, guaranteed essential health benefits, prohibition of preexisting condition exclusions, and standardization of cost-sharing burdens, coverage under the ACA is expected to create more stable premium pricing.

Despite the stability, many self-employed business owners may still experience an increase in the cost to buy insurance coverage. However, these costs are mitigated by premium subsidies, one advantage of using the individual marketplace to help offset the cost of premiums. About 11 million uninsured Americans may be able to pay \$100 or less per person for coverage purchased through the marketplace using the premium credits. Many of them will be the self-employed who could never afford coverage before the ACA.

As more Americans gain quality health coverage, job lock will be reduced. This newfound freedom allows more Americans the ability to take risks and start their own businesses, spurring innovation and economic growth. One study estimates that the ACA will lead to an 11 percent increase in self-employment. But the fact remains that any impact of the ACA cannot immediately be known as it takes time to implement the law and allow employers a chance to enroll. Purchasing health insurance, regardless of your business structure, is complex, and many factors must be considered. We are here today to learn more about those factors. In order to ensure the success of our self-employed, we must understand the challenges and benefits the law has for entrepreneurs.

I thank all the witnesses for being here today, and I look forward to your comments.

Thank you, and I yield back.

Chairman HANNA. In the interest of Mr. Baker's schedule, we will let the ranking member introduce him.

Ms. MENG. Our next witness is Dean Baker, the co-director of the Center for Economic and Policy Research in Washington, D.C. He is frequently cited in economics reporting and major media outlets, including The New York Times, Washington Post, CNN, CNBC, and National Public Radio. Mr. Baker has written several books, his latest being *Getting Back to Full Employment: A Better Bargain for Working People*. He previously worked as a senior economist at the Economic Policy Institute and an assistant professor at Bucknell University. He has also worked as a consultant for The World Bank, the Joint Economic Committee of the U.S. Congress, and the OECD's Trade Union Advisory Council.

Thank you for testifying today, Mr. Baker.

**STATEMENTS OF DEAN BAKER, CO-DIRECTOR, CENTER FOR ECONOMIC POLICY RESEARCH; TODD MCCrackEN, PRESIDENT, NATIONAL SMALL BUSINESS ASSOCIATION; AIAN SCHULMAN, PRESIDENT, INSURANCE BENEFITS AND ADVISORS, LLC; CHARLIE ARNOLD, PRESIDENT/OWNER, ARNOLD POWERWASH**

**STATEMENT OF DEAN BAKER**

Mr. BAKER. Thank you, Ranking Member Meng and Chairman Hanna. I appreciate you accommodating my schedule, and I apologize that I do have to leave at noon due to an earlier commitment. So I will have to leave early.

I want to make three main points in my comments. First off, to expect the Affordable Care Act to end the job lock that people have felt because of the need for health insurance and based on research I think that is likely to lead to an increase in people turning to self-employment on the order of 15 to 25 percent. That removes a major impediment to people taking the jump to self-employment.

Secondly, it should improve job retention at small businesses. One of the reasons that workers often leave a smaller business is that they need healthcare insurance that smaller businesses often find it difficult to provide. By allowing people to get affordable insurance through the individual market, that should relieve one of the major reasons that good workers often leave a small business.

And the third point is that there has been a big impact on cost. Costs have slowed rapidly. Clearly, not all of that is due to the Affordable Care Act, but I think it is fair to say a substantial portion of it is, and as a result of that I think small businesses, really all businesses, are paying lower premiums than would otherwise have been the case.

Now, taking the first point, it is a difficult issue. Economists often find themselves scratching their heads. How do you measure this? Because we know that workers are less likely to leave a job that provides health insurance because in general those are better jobs, so that is not really news. Also, it will tend to be the case that you have workers that value security, so they will look for jobs with healthcare insurance. So we try to find ways that get around these factors.

And there have been three recent studies that I think are especially compelling. In one case, the study took 11 years of data from the current population survey. That is the main labor market survey that the Bureau of Labor and Statistics uses, and it looked at the likelihood of people being self-employed depending on whether their spouses had health insurance. The idea being if my spouse has health insurance, I am able to get health insurance through my spouse, and I found there is a very big difference. People are much more likely to be self-employed if their spouse had insurance than if that was not the case.

The other way in which it examined the issue, it looked at the rate of self-employment. As people turned 65 and became eligible for Medicare, there is a big jump in self-employment at that age. There is no comparable jump at age 60, age 55. Clearly, being eligible for Medicare makes a very big difference.

A second study that, again, tried to get around the problems looking at this issue looked at the behavioral risk factor surveillance system, a very large survey. They had a sample of over 380,000, and the particular issue they were looking at was a healthcare reform in the individual market in New Jersey instituted in 1993. And they looked at the impact of that on self-employment in New Jersey relative to neighboring states and the rest of the country, and they found an increase in self-employment on the order of 11 to 20 percent, a very large increase.

The third survey involved a very large sample. This was done with the American Community Survey, a sample of 2.6 million. They were looking at young people, people 19 to 25, who were newly eligible to be covered by their parents' insurance because of the Affordable Care Act. And again, they found a very large chunk in self-employment among that group relative to people who were just older or just younger, suggesting that the option of being covered on their parents' insurance had a very big impact on their willingness to be self-employed. And I just point out that this is really striking because this is a group 19 to 25 who think healthcare insurance is generally not a very important factor, and nonetheless, they found very strong results.

The second point I was going to make, there are a number of studies that show that people are more likely to leave a job that does not have insurance if they have a sudden need for it, and the usual item to test is if their spouse becomes pregnant. So you have married men that typically may not have much need for insurance. Suddenly, they are looking at a situation of a newborn child. They are very likely to leave their job. Having the option of getting insurance through the individual market is likely to decrease the number of people who leave jobs where they cannot get insurance through their job, which should be a big benefit to small businesses that lose a lot of good workers for that reason.

The last point, as I was saying, it is well-known we have had a sharp slowdown in cost. Healthcare costs, if we look at Medicare costs, they are about 10 percent lower today than was projected back in 2008. That is pretty much across the board the story. I will not say the Affordable Care Act was the whole reason for the slowdown in cost, but I think it was certainly an important part of the reason. And what that means is even though a lot of the reasons the Affordable Care Act might make specific policies more expensive, in aggregate we are looking at situation where I think most employers are paying much less for insurance.

So in conclusion, I would just say I think we will see a lot more people taking the leap to self-employment. I think we will look at a situation where small business employers will find it easier to keep people on the job, and also those that are providing insurance will be able to do so at a lower cost.

Thank you.

Chairman HANNA. Thank you.

Our next witness is Todd McCracken, president of the National Small Business Association. Since becoming president in 1997, he has directed all activities of the advocacy-oriented association. As director of its government affairs arm, Mr. McCracken plays a key role in developing the NSBA's policies on issues. Since coming to

the association, Mr. McCracken has testified before Congress numerous times about issues ranging from fundamental healthcare reform to tax code restrictions.

Mr. McCracken, you may begin.

#### **STATEMENT OF TODD MCCRACKEN**

Mr. McCracken. Thank you very much, Mr. Chairman.

Thank you for inviting me today. I appreciate the opportunity to talk about these very important issues that are somewhat vexing to the small business community, especially to the self-employed. I will try to summarize my statement, which I understand will already be submitted into the record.

We are deeply troubled by the ongoing difficulties our healthcare system creates for small businesses and their employees, and by the fact that the most recent national effort to reform the healthcare system has made many of these difficulties worse.

I would like to summarize a survey that we do on a regular basis that looks at the issues facing small businesses in the healthcare arena.

The latest one that we just released last month shows how America's small business are dealing with rising healthcare costs, what kind of benefits they offer, and how the Patient Protection and Affordable Care Act (PPACA) is impacting their businesses. The survey confirmed what has been widely reported about healthcare costs for our smallest companies: they are rising steeply, and entrepreneurs are deeply concerned about what the future might hold. But we continue to hear that medical information is down and overall healthcare costs are rising only slowly, which is certainly good news. Evidence of such trends are hard to find in the small business community, and in our recent survey, 91 percent of businesses reported increases in the health plan premiums at their most recent renewal and one in four reported premiums going up more than 20 percent.

Since 2009, which is when we started asking this question, the average per employee health premium has increased by 90 percent. It is key to recognize that during this same period, growth and profits have largely been stagnant, so it is little wonder that businesses are focusing on this area of ever-increasing costs and wondering whether the current system is one they can continue to afford, and increasingly worried that the Affordable Care Act will only add to their miseries.

Remember, these costs have real world implications on how businesses are run. Our survey shows that a third of companies held off hiring a new employee, and more than half said they held off on salary increases for employees as a direct result of higher insurance costs. Of course, these employment decisions are both a reflection of current costs and a window into uncertainty about what the future may hold both for the economy and the healthcare system.

The self-employed, of course, face very distinct issues as they move forward, and Dr. Baker I think talked about some of those that the self-employed face. Specifically, sort of nascent entrepreneurs' indecisions to start a company, and we have long held that appropriately structured healthcare reform can actually case

the job lock that health insurance imposes on those folks and free more people up to start companies.

Unfortunately, what we are seeing right now is that while there is an end to many insurance-rooted practices that have concerned people, there is also a great deal of uncertainty about whether the individual mandate will be effective at bringing in healthier lives and what the overall premiums are going to be. So the questions now are actually for relatively healthy, relatively young potential entrepreneurs and they no longer will be able to buy relatively inexpensive, high deductible health insurance for themselves. They are going to have to buy very expensive, much more comprehensive coverage if they go into the marketplace for themselves. So I think we are replacing one kind of job lock with another potentially and that is a little bit concerning.

One of the things that we think we can do to help ameliorate that a little bit is at least for a while to loosen those age bands at least until we are clear that the individual mandate will be effective in stabilizing the overall health insurance market and that we really will have healthier risks subsidizing the higher risks. And we also think it is really important for Congress to provide some equity for the self-employed through the tax code. I mean, right now most people do not realize this, but if you have a job and your employer pays for your premium, and even the part of your premium that you pay as an employee, all of that is tax free. Not just for your income taxes but for your FICA taxes. It is totally pretax. But if you are a self-employed person providing insurance, your own portion of that is not exempt from FICA tax. Self-employed pay both halves of the FICA tax and the self-employment tax. It is 15 percent that they pay on their health premiums that no one else in the workforce pays for their employer-provided health coverage. So we would like to see that corrected, and that would give you a 15 percent discount essentially for the self-employed on the health insurance right off the top.

I will stop there and welcome your questions. Thank you.

Chairman HANNA. Thank you.

Up next is Alan Schulman, president of Insurance Benefits and Advisors in Rockville, Maryland. Founded in 1989, his company is a full service employee benefit firm working with clients in size from two to 1,000. Mr. Schulman advises, implements, and services all employee benefits, including health, dental, life, long-term care, and disability insurance for his clients.

Mr. Schulman, you may begin.

#### **STATEMENT OF ALAN SCHULMAN**

Mr. SCHULMAN. Thank you, Chairman Hanna.

Good morning. My name is Alan Schulman, and I am a self-employed health insurance agent from Rockville, Maryland. I represent my professional association, the National Association of Health Underwriters, and my client, the Council for Affordable Health Care. I help my clients purchase health coverage and service those benefit plans all year. Almost all of my clients are self-employed or have less than 50 employees. Thank you for inviting me to testify.

The impact of health reform on small business owners is often downplayed because we do not have to follow the employer mandate. Really, though, we are in the middle of a seismic shift due to health reform, and for us, no new requirements have been delayed.

I will focus today on three key issues. For many small business owners, most of the impact of the law will not be fully felt until this coming fall. The new rules and related cost increases are changing small business health plan options. Owners are seriously reevaluating coverage. There are practical and bipartisan solutions to the problems faced by small businesses. Small employers renew their health plans year-round, and most small group changes take effect on the anniversary of the businesses' plan year in 2014. Last year, a variety of circumstances caused many small employers to switch their anniversary date to December 1. Eighty percent of my clients switched. These employers will not really experience health reform until this coming September and October when they start reviewing their new health plan options for the year ahead.

President Obama famously campaigned on "If you like your health plan you can keep it." Millions with individual coverage realized that was not exactly true on January 1. Many more small employers will find out that over the course of this year, too, and most of them this coming fall.

A big and unexpected change for small employers is the cost to modify community rating and the new national Health insurance premium tax or the HIP. There are some bipartisan bills to fix these cost drivers, including H.R. 763 to repeal the HIP and H.R. 544 to fix the law's current, very narrow age bands.

However, the way HHS has implemented the age bands is causing a separate big problem for very small employers, too. Before health reform, rates did not reflect the ages of all the employees in a group, but employers and employees never felt the breakdown because they always got a composite rate, so all employees were caused the same average price. Composite rates were both an administrative convenience and an important protection against age discrimination. Now, due to the way the age band rules were written by HHS, it is virtually impossible for a carrier to give an employer a composite rate.

Here is a real life example. Due to HIPAA privacy constraints I can only give you the basics of this group. The employer has between 20-30 employees. Last year, the single composite rate for everyone in the group, whose ages range from early 20s to mid-50s, was approximately 300 a month per employee. The employer paid about two-thirds of the single coverage cost for all employees. Last month, I shopped for a group plan looking at all of the health plan options available in the state of Maryland. The best scenario for fully-insured group coverage had a rate of approximately 325 a month for the youngest employee, and over 900 a month for those employees in their 50s. Naturally, the employer was extremely distressed, and not just about the increased costs. The idea of explaining to the older employees how much more they will have to pay is unsettling, and my client was worried about legal costs should an employee file a complaint. My client considered dropping cov-

erage, but ultimately moved to a level funding arrangement exempt from both the age bands and the hit.

This scenario is going to happen to small business owners nationwide each month this year, with most learning about the problem next fall when they go to renew their current coverage and find out they cannot. Prices will be increasing and plan options are also going to change. The new law imposes a deductible cap of 2,000/4,000 for small employers only, which will make it much harder for employers to offer consumer-directed health plan options.

I want to make this point clear. The cap only applies to small groups. It has no peer requirement for individuals or companies like IBM. House Bill 2995, a bill to repeal the cap, has been introduced by Congressman Tom Reed, a republican, and Mike Thompson, a democrat.

CAHC commissioned a study by Avalere showing that it would help employers retain coverage, thereby lowering premium subsidy costs by 1.2 million over 10 years. My hope is that every member of this Committee will cosponsor the bill and that Congress will take action to restore health plan choice options for small employers.

Another problematic change for small employers is the out-of-pocket limit cap, which is being implemented in a way that conflicts with time-tested benefit practices. The essential health benefit requirements for pediatric vision and dental are barely understandable to benefit professionals and issuers. For the small employer just trying to run his or her company, they are mind-blowing.

Large employer concerns may command more media and regulatory attention, but health reforms compliance and cost burdening is causing a ton of anxiety and disruption for self-employed guys like me, too. It is making employers change their hiring practices, explore other ways of providing coverage the private market may offer and consider dropping coverage altogether. But I have highlighted the bipartisan solution to some of these problems. My hope is that republicans and democrats can rally around these solutions because small businesses and the self-employed are facing real problems right now.

Thank you for the opportunity to testify, and I welcome any of your questions.

Chairman HANNA. Thank you, Mr. Schulman.

Our next witness is Charlie Arnold, president and owner of Arnold Powerwash in Lewes, Delaware, which does both commercial and residential cleaning of all types of exterior surfaces. He is on the board of directors for Powerwashers of North America, holding the positions of secretary and environmental chairman of the Eastern United States, as well as being an author and instructor for certification classes.

I thank you for being here, Mr. Arnold. You may begin.

#### **STATEMENT OF CHARLIE ARNOLD**

Mr. ARNOLD. Thank you, Chairman Hanna and Ranking Member Meng, and the members of the Subcommittee. Thank you for the opportunity to share today the impact the Affordable Care Act is having on small businesses and the self-employed.

My name is Charlie Arnold and I am president and owner of Arnold Powerwash LLC, located in Lewes, Delaware. It is a family-owned professional powerwash company organized in commercial and rental divisions, cleaning all types of exterior surfaces, along with fleet washing and dry ice blasting.

Like many self-employed, I wear various hats—from being a small business owner to a community leader. In addition to owning and operating Arnold Powerwash, I am also proud to serve as Pastor of Seaside Church, director of Emergency Services for 1-800-Boardup, director of sales for E-Clean Magazine, and I volunteer as EMS captain for Lewes Fire Department and past EMS chief. I also served as vice president of Powerwashers of North America, and finally, it is my role on the member council for the National Association of Self-Employed (NASE) that I am offering my testimony today.

NASE is our nation's leading advocate and resource for America's 23 million self-employed micro business owners. It is in all of these roles that I am able to provide a unique perspective and first-hand experience regarding the impact the Affordable Care Act has had on nearly 23 million self-employed Americans, the largest potential consumers of ObamaCare. Until recently, I found myself ignoring the Affordable Care Act because I have insurance coverage that I am happy with, but I found out that it may change June 1st. I am a business owner with fewer than 50 employees. My employees have insurance that are provided elsewhere. Therefore, I thought it would have no impact on my business or me, but I was wrong. My eyes have been opened and I see the devastating effect that AC is causing because it is not based upon lies, opinions, ideas, or rumors but upon what I have been told personally in the last two weeks especially by other business owners and their employees. Quickly put, real skyrocketing premiums with increases ranging from \$300 to \$1,600 a month, partially because of the new age-banding pricing, a fact based upon letters in my possession, it is causing not just fear but terrified households and realistically means less discretionary income, which translates into much less job opportunities for my business.

One proposed answer has been tax credits, but they cannot replace what you do not have in the first place. Fear causes lack of confidence, which causes stagnation in the marketplace. I would also like to reemphasize in the recent conducted survey by NASE that 60 percent of the respondents said that they thought there was a low or very low chance that they would be able to secure both affordable and comprehensive coverage in 2014.

Last year, my business dropped over 50 percent because people were afraid of the economy. I could graph the drop in business every time the government talked about budget problems and could not make a decision. This year, people are not only afraid, they are terrified, because all of a sudden they have an average of \$500 a person a month being taken out from under them by mandate to pay for health coverage, and \$500 is the average cost to clean a house in my business. The bottom line is the United States government has become my greatest competitor last year and this year.

Greater liability and greater ACA penalty liability may be imposed upon my company because I lease my employees. Not only

have my direct costs to lease employees gone up 3 percent, but based on the interpretations of the law, my cost to lease these employees may go up, containing the cost of providing the ACA coverage, even though I only have two full-time employees and seven part-time seasonal employees. I am glad, however, that the U.S. House passed a much needed one-year extension for the compliance for small businesses and individuals. It never makes sense to me as a small business owner why large businesses always get the breaks when small businesses make up the majority of the businesses in America. There are far more people like me than CEOs like at GM. The majority of jobs and the spreading of wealth take place at the small and micro business level. The constraints also placed upon the usage of Health Reimbursement Arrangements (HRA) has made them almost unusable. Unless I provide ACA coverage for my employees, then I cannot offer them help for any other health-related expenses, which makes no sense to me. It seems to me that a little help is better than none, but it seems like as it is written now and rulings have been put in place, that it is another all or nothing idea which helps no one because it will default to nothing.

The simple effect of consumer reforms need to stay in place, like not being declined for pre-existing conditions, no lifetime limit on coverages, and caps on out-of-pocket expenses. We must work together to overcome these fears, the mis-conceptions and the wrong interpretations of the ACA causing such great confusion.

I, on the behalf of the National Association of Self-Employed, thank you for the opportunity to offer the self-employed perspective on how the ACA has impacted our community.

Chairman HANNA. Thank you. Thank you very much.

Mr. McCracken, a couple things. Mr. Baker mentioned—I am glad he is still here—the portability. Okay, good thing. Everybody likes it. Do we need the Affordable Healthcare Act to have portability, which has apparently become one of the major defenses of this act?

Second thing, how can an act or a healthcare law that represents close to 18–20 percent of the economy, and we have seen increasing costs up until recently, but how—and Mr. Baker, I will give you a chance to respond—how can it possibly be that a healthcare law that has only been in existence for a very short period of time can make the claim that it has, indeed, cut costs?

And thirdly, we talk about job lock and we mentioned—Mr. Baker mentioned that people 65 and older are going into businesses of their own, but I mean, that is probably the most logical thing to do at 65 if you are healthy and interested after you have retired from a full-time job and perhaps are on Medicare. So Mr. McCracken?

Mr. MCCRACKEN. Yeah. I think on the last point it did strike me as certainly I know a lot of people who retire from work and then do a little bit of consulting and they are therefore, that does strike me that is the likelier explanation for a big jump in self-employment at retirement than health insurance, although plainly health insurance could play a role for some people.

The job lock issues, I do not think we have to have the Affordable Care Act as currently structured to deal with the job lock. In fact,

the high costs that come with the Affordable Care Act because of the high level of benefits and so forth and the very tight rating bands really do make us concerned whether the individual mandate will even be effective in achieving anything close to universal coverage and should be that individual mandate that helps to create the right kind of market forces to enable the kinds of insurance reforms.

Chairman HANNA. To that end though, is it not also true that the four million people that have already signed up for the most part already had insurance?

Mr. MCCRACKEN. I believe that is the case. I do not have those exact numbers but I think a lot of people have moved from one form of coverage to another.

Chairman HANNA. Go ahead. I am sorry.

Mr. MCCRACKEN. But certainly, job lock is an issue, and if we can get the right kind of affordable coverage available broadly that is not always tied to a workplace, that clearly would help the small business community. I do not think there is any doubt about that. I do not think there should be any debate about that. But the question is is this kind of performance going to get us there? And we do not think so.

Chairman HANNA. In the interest of Mr. Baker's schedule, Ms. Meng?

Ms. MENG. Thank you, Mr. Chairman. I know that Mr. Baker has to leave soon. I apologize. I will momentarily have to leave also. We are in the middle of a markup on a bill regarding Ukraine in the Foreign Affairs Committee, but I will be back.

Mr. Baker, the Affordable Care Act contains some provisions that may increase the cost of coverage, while many others, like the small business tax credits, the availability of the exchanges and premium subsidies hold costs down. All things considered, do you believe the ACA has helped expand coverage for the self-employed who have previously been completely shut out of traditional markets?

Mr. BAKER. Well, I would say my assessment at this point is almost certainly yes. You know, just to refer back to a couple of the points Representative Hanna raised, the efforts to have portability, these go back, you know, at least a quarter century. We passed COBRA back, I think it was 1985, if I remember correctly, and then there was the Health Insurance Portability and Affordability Act I think in 1995 or thereabout. And those were somewhat beneficial but those did not solve the problem clearly, and we have a lot of data showing that. So I think that allowing this portability, and again, getting back to your point about allowing people with small businesses, allowing people the freedom to start small businesses and not have to worry about getting affordable health insurance, I think that is a very big net positive.

And then also in terms of the healthcare cost, again, it is well documented healthcare costs have slowed sharply. Many provisions of the Affordable Care Act came in as early as 2011. Among other things there was a limit on a requirement that there was a medical loss ratio of at least 80 percent. I know my own think tank, we received rebates from our insurer for both 2011–2012 because of that provision, and also, again, how much this is due to the Affordable

Care Act or not, I cannot really say. Our costs actually increased much, much less. We were used to double-digit price increases through most of last decade, and we have had very slow increases in the cost of our insurance.

And just the last point on age 65, of course people will take the opportunity when they retire, but most people actually retire well before 65. The median age at which people start to collect their social security benefits is 62 and 11 months. It might be 63 now but it is well below 65. So that would not explain this break that we see. There is a big jump when people turn age 65 and qualify for Medicare.

Chairman HANNA. Thank you.

Mr. McCracken—Mr. Huelskamp?

Mr. HUELSKAMP. Yeah, quick question if I could before Mr. Baker leaves, and I do not know if Mr. McCracken answered that but the other two gentlemen did, what do you do—Mr. McCracken, do you have employees? And how do you handle insurance for them?

Mr. MCCracken. Well, we are named “association”, but we are essentially a small business and we provide health insurance for our employees.

Mr. HUELSKAMP. Okay. And Mr. Baker, yourself?

Mr. BAKER. Yeah, we have insurance at our workplace for roughly 20 people, and we have had insurance pretty much since we started in 1999.

Mr. HUELSKAMP. And your premium increases, do they match what I have heard for other small businesses?

Mr. BAKER. We have been very pleased with our increases the last three years. They have been somewhere in the area of 2 percent. I will not vouch for that exact number but it was in that ballpark where in 2008, 2009, 2010 we were looking at double-digit increases, and again, I am not trying to say the Affordable Care Act explains that falloff, but we have very little to complain about in terms of recent price increases.

Mr. HUELSKAMP. Great. I appreciate that. I know you are leaving.

Mr. Arnold, I appreciate your testimony from—is that Lewes, Delaware? Is that how you pronounce that?

Mr. ARNOLD. Lewes.

Mr. HUELSKAMP. Lewes.

Mr. ARNOLD. Yes.

Mr. HUELSKAMP. Population 2,797? That is kind of what I am used to as well.

But Mr. Arnold, we have seen with this administration in the last number of months, 29 times I think is the latest count where the administration simply waived some executive wand and made changes particularly for large employers. If you had to pick one that you would like the president and the administration to waive their wand again, which one would you pick to say this is the most troublesome aspect for the next 12 months for small businesses and your association that you represent?

Mr. ARNOLD. Because of some of the information that is coming forward now, I would say this extension of the deadline for small businesses and individuals because there still is so much myth and

misunderstanding out there that I cannot tell you that I can be completely compliant. I need the extension.

Mr. HUELSKAMP. And that is what I hear from a lot of the small businesses. Even if they are trying to comply, they are not certain if they can, and they certainly cannot afford it in many cases. For folks that are worried about a job trap, I am worried about small business men and women actually trying to make their payroll and meet their obligations they feel to their employers. It has become exceedingly difficult. And maybe it is obviously different across the states if you are under 35 in Kansas and you are self-employed, your penalty for being self-employed was a 100 percent increase of your premiums on January 1st. And who would want to step into that situation? And that is an incredible burden, so I appreciate the real-life experience.

Lastly, on the self-employed tax plan—I am not sure if Mr. Schulman or Mr. McCracken brought that up, but I was not here when the previous majority passed the president's healthcare plan. Any explanation why they left such a significant penalty on small businesses on the owners? This is just amazing and shocking that they would leave that penalty in place when they had an opportunity to change that.

Mr. MCCracken. Well, yeah, I think it comes down to priorities in terms of the revenues. We advocated strongly for that being included. It has been a disparity in the tax code for quite a number of years and we have been arguing for its change for a very long time. There was a very brief period in 2000—I lose track of time—2010, I think, 2011, where we actually did achieve some measure of equity there for a short period of time. It expired after a year, and we think we need to restore that.

Mr. HUELSKAMP. Okay. All right. Thank you, Mr. Chairman. I yield back. I appreciate it.

Chairman HANNA. Thank you.

Mr. McCracken, the administration's latest unilateral change—not the one last night but the one last week—delayed the requirement that coverage meet minimum coverage standards. Does this delay not come after many small business owners had already purchased more expensive coverage? How do we make them whole and how does this affect them?

Mr. MCCracken. Yeah, it comes out to lots of decisions have already been made unfortunately. Unbalance is probably better to have that decision than not to have had that decision, but it is rather late in the game. It probably is going to have a relatively negligible impact in the real marketplace as a result of that fact. I frankly am not quite sure what we do about it moving forward and what would be the best.

Chairman HANNA. So, I mean, the idea is that compliance has become its own penalty.

Mr. MCCracken. There is something to that. And meanwhile, the compliance with the overall way to purchase insurance has been lost in the mix is already a very low penalty and that is really our biggest ultimate concern is that we are requiring insurers to guarantee coverage to everybody, regardless of their past coverage, regardless of their past health experience, and within a relatively narrow age band. And if we do not see significant progress towards

getting everyone into this market, it is going to become unaffordable for most people who are trying to buy coverage, and that is ultimately our biggest concern. And the whole thing is simply going to collapse.

Chairman HANNA. Mr. Schulman, how have the many cancelations and postponements that the administration has announced been difficult for you and insurance professionals like yourself? What have you seen on the street?

Mr. SCHULMAN. Not speaking specifically to that, but what I do see on the street after reading everybody's studies and surveys is in December I received in my group a 73 percent increase. In January, the group I mentioned in my testimony was a 62 percent increase. I am leaving here to see a restaurant in D.C. with a 43 percent increase. Yesterday, I received three client renewals for May. The lowest one was a 43 percent increase. They ranged in the 60s, and another one in the 80s. I believe that everything that is going on, the committees, all the talk, all the back and forth, is spending money that is rolling back into the ACA.

Chairman HANNA. Have you seen any decreases at all on any of your clients?

Mr. SCHULMAN. Mr. Hanna, I did not get time to say anything to Mr. Baker, but in the last 24 months I have not delivered a renewal that was reduced, not increased.

Chairman HANNA. How many renewals would that be?

Mr. SCHULMAN. In the last 24 months I have delivered to each of my clients, twice every 12 months, 100 renewals. So, and again, I am glad to send to anyone on the Committee with names redacted, we can leave the zip code so we can see this is Maryland, D.C.—

Chairman HANNA. But to get this straight, your business, in all your client base, you have not seen a single reduction in cost?

Mr. SCHULMAN. No, sir.

Chairman HANNA. My goodness.

Mr. SCHULMAN. And to the beginning of your question, the delays add more confusion, more problems at the workforce for all these people that are represented here, and myself, because as soon as you get ready to do one thing there is a change from last night or two weeks ago. So it has all been negative to the end-user which is where I interface with a renewal—

Chairman HANNA. Have you seen anyone go out of business over this? Have you—other than threats, anxiety, have you seen anyone actually say, "I am out. I cannot do it"?

Mr. SCHULMAN. A couple groups that were just in the twos I have seen decide to just let go of their employees and try to go it literally on their own.

Chairman HANNA. So you have seen in some cases a loss of employment?

Mr. SCHULMAN. Two groups in the last 12 months, clients of mine have done that.

Chairman HANNA. And do you know from your experience talking to other people that do what you do, is this fairly widespread?

Mr. SCHULMAN. Yes. Recently, about three weeks ago, the National Association of Health Underwriters had their annual capitol conference here on Capitol Hill, and brokers from as far as Alaska,

Washington are there, and we also have a convention once a year we meet. And every single person I speak to has that issue.

Chairman HANNA. Thank you.

Mr. Arnold, as you know, the employer mandate has been postponed but the individual mandate, which requires individuals to purchase health insurance has not, which is what we are talking about. We voted yesterday to delay the individual mandate but we have to wait on action from the Senate and the president. Do you think it is fair that self-employed, small business owners, who must obtain insurance on the individual exchange have been excluded? I guess that is kind of a loaded question, but we do that around here.

Mr. ARNOLD. Yeah, it truly is unfair. Again, why are the larger businesses getting the breaks when small business does not? Larger businesses have a greater percentage of their cash flow to be able to deal with different things, a small business does not have wiggle room to be able to deal with any kind of new issues that come up, especially when they blindside you like they are right now.

Chairman HANNA. Mr. McCracken, how many people in the country are like Mr. Arnold—individual, self-employed, smaller, sometimes single proprietorships?

Mr. MCCRACKEN. I believe there are about 11 million self-employed people who derive their primary income from self-employment, and there is another at least that many who do some level of self-employment activity that may have other sources of income as well.

Chairman HANNA. So they are left hanging through this?

Mr. MCCRACKEN. That is right.

Chairman HANNA. They really are not part of the—they are not being given latitude through relief from the individual mandate, and yet in some strange way they are also not considered part of that. Is that—

Mr. MCCRACKEN. Yeah, there are lots of places, particularly in our tax code, where business owners, even if they are single, are not considered “employees,” and we define lots of various kinds of benefits around going to employees, which is a lot of the issues around the self-employment tax and health insurance that I described before.

Chairman HANNA. Mr. McCracken, is there anything—I mean, you have such a wide network, what would you envision an effective healthcare system look like? If you want to limit it just to portability, which is clearly kind of the fallback support for this healthcare law, it seems to me there are lots of ways to provide portability. And of course, we have heard of a couple.

Mr. MCCRACKEN. There are lots of them. We have been committed to having a private healthcare marketplace, and there was a time we started about healthcare reform more seriously in 2009 and we were hopefully optimistic because we do think it should revolve around the individual and we do think that providing portability so that people can make decisions about employment regardless of their healthcare situation makes a lot of sense. So we do think a system in which individuals take primary responsibility, but employer can still have incentives to offer coverage makes a lot

of sense, which from our perspective looks something like what we have.

The problem is as the efforts to create the log out rolling the levels of required benefits, the tightness of the rating rules and everything else added a great deal of expense to the system. So we have essentially shackled individuals who they mandate to a really expensive system, and now we are wondering why they are not jumping to buy it in the face of a \$195 penalty or something.

Chairman HANNA. Which apparently we do not have the mechanism to collect.

Mr. McCracken. It is in some level, again, for a very high level it is the right framework but very, very poorly designed to actually function.

Chairman HANNA. Mr. Schulman, do you want to weigh in?

Mr. SCHULMAN. Thank you.

Hard to know where to start. Certainly, everything Mr. McCracken said and just the whole approach to this I believe is going to leave more people uninsured. The exchanges are a nightmare. People that know how to enroll health insurance are having trouble with the exchanges. Client groups just do not know what to do or where to go.

A very quick example just to illustrate what does happen to business, you mentioned businesses that are dropping coverage. A client of mine that had insurance a few years ago had to give it up because their business went down with the economy. They called me and said, "We are ready again." I went and met with them in December. Now, normally, I would have enrolled their three employees in about 48 hours in a computer in my office with my staff. They would have had temporary ID cards about two weeks later. It all would have gone perfect in D.C. Well, my office manager reminded me, "Alan, this is an old group for you but it is a new group in the system, so they have to go through the D.C. exchange." It took from December 27 to January 15 to enroll them. On January 15, my office manager said to me, "Alan, you have to call the group and tell the employees now that I have the group enrolled, they have to individually go into the exchange with their password and set themselves up." I said, "No, Monica. You will email the group. You will get their social security number, their password, and all their information, and you will go in and enroll them because that is what we do." Now, Monica tells me three days later, "Well, everything is done and it is fine, but you promised them a January effective date." I said, "So they will have February?" I said, "It is all done January 27th. I can understand they will not have a January date." They said, "No." She said, "You have not been reading your emails from the D.C. Exchange, Alan." I said, "Well, what is it?" She said, "They will be effective April 1." What do you tell that employer and the two young ladies that are off their parents insurance now and are waiting for their insurance to be effective, have doctors' appointments that they certainly changed from January to February, but now they will be effective April 1. Why? That to me is not getting people—

Chairman HANNA. Do you have a sense of how the fines to employers will affect their willingness to—Mr. McCracken, you are smiling so we are on the same plane here, but affect their willing-

ness or how they incentivize employers to maintain their own historical insurance plans.

Mr. McCRACKEN. I do not think they affect them one way or the other honestly because—in essence, one of the essential problems was it is very difficult for employers who are over that threshold where they may face a penalty to assess whether or not they are going to have a penalty or not until it is actually imposed because of the enormous complexity of the law and there is no way for an employer to know what the household income is of any given employee. They only know what they pay them. There are rules where you are looking back at what people made last year, but applying it to what the situation is this year. So I think employers in that boat are simply going to try to do the calculations as best they can and the fine is the fine. I think that has to be the way they approach it.

Chairman HANNA. Mr. Schulman?

Mr. SCHULMAN. Another example, but first I will mention there are play or pay calculators that have been developed by a lot of entities where you can put in scenarios for an employer, and I definitely agree with Mr. McCracken. The employers are looking at it, but I do not think it is really going to matter to them. Either they are going to or they are not. And what is worse is every time they spend the time to do it, to look at the cost calculators to see what it costs to play in the market or pay the penalty, they scratch their head and they go, “Well, I will wait and see what happens,” and it keeps getting delayed.

But another example I will give you is that I have a blue collar group in Virginia that all of their employees are roofers and these gentlemen do not speak our language, do not understand it, and they are totally confused about healthcare. Well, they are going to pay individual penalties come April because they are not enrolled in any healthcare. This group is actually going to get health insurance for these employees and ask them to contribute what their fine is, instead of them being fined because this employer cares to have health insurance in his company. He is already building into every new bid to the consumer a cost for that employee’s health insurance.

Chairman HANNA. Can you tell me—anybody, Mr. Arnold, maybe you can weigh in—I will make the assumption that the marginal gain to hiring a new employee with the kinds of healthcare issues that the three of you are talking about are reduced? Increased? What do you think? As opposed to say overtime or we know about the 40 hour to 30 hour issue. How have you seen that play out, if you have, Mr. Arnold? If not, anyone?

Mr. ARNOLD. The reality of what Mr. Baker said a while ago, and I am sorry he is not here, but with all due respect, I do not know what planet that gentleman is from because what he was telling us a while ago about job security and increasing people staying in small businesses is exactly the opposite. For example, my cardiologist. He has 25 employees. He paid 100 percent of all their medical costs, their out-of-pocket costs and everything until recently. They just went through the renewal process that the gentleman here was describing, and their cost went up ridiculously high, anywhere from \$300 per person to the \$1,600. That is where

those numbers came from. This one lady had been working for the cardiologist for 10 years. She was a good employee, but now her rate has gone up \$500. That is what she makes in a week. And so she is now faced with either paying the \$500 additional a month or quitting work and paying to get her insurance through her husband's insurance because evidently he has not gone through the renewal process yet and she can get it for a \$35 increase. So she is not going to be working at the cardiologist's office anymore.

I experienced the same thing in my own business where I cannot increase their pay enough for them to be able to help them to pay those exorbitant costs, even if they go to the personal exchange, and so one of my employees left that had been with me three years, was a top employee, to go work for a larger restaurant firm so that he could get insurance paid for by them. So the idea of the ACA helping small business keep employees is absolutely ridiculous because it is not happening; it is the opposite.

Chairman HANNA. Mr. McCracken, anything left you want to talk about? We have time here.

Mr. MCCRACKEN. I am not sure I have a lot to add to that, but certainly, if we could have a system where employees and workers have a sense of security, I think it would give people an additional reason to think about leaving employment and starting their own business because that is one of the chief concerns—how am I going to find health insurance? And at some level the ACA does address how he can find health insurance, but of course the other piece of it is how am I going to afford health insurance? And I think that is the side of things where people are still deeply concerned and where the law continues to fall down a bit. If you are going into self-employment you might think maybe I can get one of these subsidies for health insurance because they are being pretty generous, but you do not know what you are going to make when you go into self-employment. And you really do not know what that individual market is going to look like because people have seen the bungled rollouts of the exchanges and they hear all the news, I think appropriately positioned that the individual markets, no one can really predict what those premiums are going to look like because of the fragility of those markets and the likely inability of individual mandate to truly bring all the right risks into one pool.

Chairman HANNA. And that does not seem to be happening now either, does it—people signing up?

Mr. MCCRACKEN. It does not seem to be.

Chairman HANNA. Thank you.

Go ahead, Mr. Schulman.

Mr. SCHULMAN. I would like to take this opportunity to thank you. I will try not to be too long here but this is my passion.

There is a handful of things that are immediate and absolutely should be done. And some example is the age bands. The composite rating is the way it should be. The age bands are much too narrow. A perfect example is everyone in this room. If we averaged the age here we would come up with X number, yet we all would pay the same premium. However, if we left it the way it is now, the youngest person in this room could be paying the lowest premium, and us in our 60s could be paying the highest premium. I could be perfectly, absolutely lucky ironman but the young person in the room

could have diabetes, could have Crohn's, could have God forbid anything. They are paying the most. It does not make sense.

The second thing is these mental plans. If I sat with every person in this room and did a survey of them, what do you think a deductible, copay, coinsurance, what would that be? I would have to graph it out and come back to the Committee because every person in this room would have a different idea of their healthcare.

Blue Cross Blue Shield owns this marketplace—that is just how it is, The Greater Washington Metropolitan area, Northern Virginia, D.C., Maryland suburbs—so I am usually selling Blue Cross Blue Shield. They have 83 percent of the market. I used to be able to go to a group of five people in Maryland or D.C. or Virginia and they could choose three plans. And they would say, "Why, Alan?" I would say, "Well, you are old and have children at home and you are probably running to the pediatrician all the time." "Did my wife talk to you?" "Yeah." "Well, you probably want a copay plan and you do not mind paying a little more premium." You said, "Yeah, she does not want to deal with deductibles." Yet, the 24-year-old that just ran a marathon, he says, "No, I do not want to pay \$300 a month. I want to pay \$150 a month. Give me a 1,500 deductible." Then you get to another sheet after 100 plans on a sheet. You get to a sheet of about 20 prescription plans. So for 100 a month, you could have a prescription plan that had a 250 deductible. Well, if you did not want a 250 and you just wanted the copays, you could pay 175 a month, take away the deductible, have a copay. All of that has been snatched from America. You have been told you can have platinum, gold, silver, bronze, and now we are considering a copper plan. But I have gone from taking groups of three to 30 to a real constructive conversation of how do you think your healthcare should work to literally give them again a choice of three plans and three prescription plans so that you might satisfy this whole room somehow. There is not any way conceivable to do that now.

Chairman HANNA. So it is limited choice?

Mr. SCHULMAN. Limited choice.

Chairman HANNA. Limited competition. In your experience, it has increased cost. Thank you.

Mr. SCHULMAN. You are welcome.

Chairman HANNA. It is a philosophy in search of a plan that I think it probably did not find.

Mr. Arnold?

Mr. ARNOLD. Yes, sir. I would like to applaud what he just said. The idea of changing from this—and I do not know where it came from—the age banding to the composite pricing probably would be the most significant suggestion I have heard throughout this whole thing about how it would help reduce the ridiculous increase in the cost. As a small business owner, I do not understand how something that is entitled the Affordable Care Act is so unaffordable. The cost is so bad and so high, people just flat cannot do it.

Chairman HANNA. Mr. McCracken, if some people do not sign up that dynamic is not going to change, is it?

Mr. MCCRACKEN. No, it is not.

Chairman HANNA. I mean, that is the key to this. And your key, Mr. Schulman, is that maybe some of those people are not paying—because of the banding, are not paying perhaps what they should?

Mr. SCHULMAN. Correct.

Chairman HANNA. So that could be a permanent condition as long as you entice young people at a very, very low rate that that will have the net effect, and we have seen that have the net effect of increasing disproportionately cost to older people. But who can argue—I mean, I would say personally people with preexisting conditions should certainly have access to good healthcare.

Mr. SCHULMAN. To affordable health care. This act is not going to accomplish that.

Chairman HANNA. Thank you. That is probably the note that we can end on.

I want to thank you all for being here today. We have seen that the implementation of the healthcare law has been problematic, to say the least. American small businesses deserve fair and equitable access to comprehensive and affordable healthcare, but clearly, the Affordable Healthcare Act is causing significant disruptions for American small businesses.

While many parts of the law have been unilaterally delayed, particularly the employer mandate, it seems that the smallest of the small firms that purchase insurance on the individual markets have been neglected. I hope that the administration takes note of this. These issues are not going away and we here on the Small Business Committee will continue to maintain active oversight on all of these issues.

I ask unanimous consent that members have five legislative days to submit statements and supporting materials.

Without objection, so ordered.

This hearing is now adjourned. Thank you very much.

[Whereupon, at 12:28 p.m., the Subcommittee was adjourned.]

**A P P E N D I X**

***The Impact of the Affordable Care Act on Self-Employment***

**Testimony of Dean Baker**

**Co-Director, Center for Economic and Policy Research**

**Before the**

**U.S. House Committee on Small Business**

**Subcommittee on Contracting and Workforce**

**AT the hearing on**

***Obamacare and the Self-Employed: What About Us?***

**March 6, 2014**

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Thank you, Chairman Hanna and Ranking Member Meng, for inviting me to address the Subcommittee on the impact of the Affordable Care Act (ACA) on self-employment. I will make three points in my testimony.

1) There is considerable research showing that the fear of losing health insurance coverage discourages workers from leaving a job that provides insurance to start their own business. By allowing workers to get affordable insurance through the individual market the ACA will substantially increase the rate of small business formation.

2) There is also evidence that workers leave jobs that do not provide insurance to get jobs that do provide insurance. Since many small businesses have found it difficult to provide insurance for their workers, their ability to get insurance through the individual market should make it easier for small businesses to retain workers.

3) The rate of health care cost growth has slowed sharply over the last six years. While the exact reasons for this slowdown are disputed, it is almost certain that the ACA played some role. This slowdown in health care cost growth has reduced the burden for many small businesses that provide insurance.

For these reasons, the ACA is likely to prove to be a strong net positive for small businesses, leading more to be started and making it easier for the existing businesses to prosper.

**The Impact of Employer-Provided Insurance on Self-Employment**

There is an extensive literature examining the impact of employer-provided health insurance (EPHI) on self-employment. The basic issue is whether workers fear the prospect of being uninsured and therefore are less likely to leave a job that offers health insurance to start their own business than would be the case if they were not dependent on their job for insurance. While studies using data from the 1980s were inconclusive on this issue, several recent studies found strong evidence showing that EPHI discouraged workers from starting their own businesses.

For example, a recent study pooled eleven years of data from the Bureau of Labor Statistics' Current Population Survey (CPS) (1996–2006) to determine whether workers with EPHI were more likely to experiment with self-employment if they were able to get insurance through their spouse than if they had no alternative source of health insurance.<sup>1</sup> As a result of pooling so many years of data from the CPS, the study was able to get a very large sample, with 81,214 employed men and 75,317 employed women between the ages of 25–64. In statistical tests that controlled for a variety of personal characteristics (e.g. education, age, industry), the analysis found sharply lower rates of transitions to self-employment among workers with a EPHI who could not get insurance through their spouse. This result held up across a number of different specifications, which indicates that it was not driven by a statistical fluke.

The study then examined the rate at which workers started new businesses as they turned age 65 and became eligible for Medicare coverage. The study found a sharp increase in the rate of self-employment as workers reached the age of Medicare eligibility. There was no comparable upturn in self-employment around other landmark birthdays, such as age 55 or 75, suggesting that hitting the age of Medicare eligibility was the key factor. Once workers were no longer dependent on their job for insurance, they were more willing to try their chances with starting a new business.

Another recent study examined whether the creation of Individual Health Coverage Plan in New Jersey in 1993 led to an increase in self-employment compared with neighboring states and the rest of the country.<sup>2</sup> This study used the Behavioral Risk Factor Surveillance System (BRFSS) for the years 1991 to 1996 to determine if there was a difference in the rate of self-employment in New Jersey in these years compared with those in surrounding states and the rest of the country. The study looked at individuals between the ages of 25–59. This gave a sample size of 18,409 for the Pennsylvania comparison, 40,880 for the Mid-Atlantic states, 66,893 for the Northeast region, and 382,670 for the comparison with the country as a whole.

The analysis found solid support in each case for an increase in self-employment in New Jersey relative to the comparison group.

<sup>1</sup>Fairlie, Robert W., Kanika Kapur, and Susan Gates. 2011. "Is Employer-Based Health Insurance a Barrier to Entrepreneurship?" *Journal of Health Economics*, vol 30, pp. 142–162.

<sup>2</sup>DeCicca, Phillip. 2010. "Health Insurance Availability and Entrepreneurship," Upjohn Institute Working Paper, no 10–167.

The implied increase in self-employment from the insurance reform was between 16–20 percent.

Finally, a recent study examined whether the ACA's requirement that children up to the age of 26 could remain on their parents' insurance policy increased the rate of self-employment among workers between the ages of 19–25.<sup>3</sup> The study used the Census Bureau's American Community Survey to compare the change in rates of self-employment among this age group in the period just after the provision just took effect, with changes in self-employment rates among workers a little younger or older (ages 17–19 and 27–33) who would not be affected by the provision. This gave them a sample of 2,637,376.

The study consistently found evidence of an increase in self-employment among the affected age group in a variety of specifications. The implied increase in self-employment was 13–24 percent. This result is especially striking since this is an age group in which we would not expect health care insurance to be an especially important consideration.

These three studies examined the impact of EPHI on self-employment using very different tests and completely different data sources. In all three cases the sample sizes were quite large. (By comparison, some of the earlier studies had samples with around 1000 workers.) Based on the findings of these and other studies, it is reasonable to conclude that the ACA will increase self-employment by between 15–25 percent when its effects are fully felt in the next few years.

### **The Impact of the ACA on Job Retention at Small Businesses**

The overwhelming majority of large businesses provide insurance to their workers. Many small businesses find it difficult or impossible to provide insurance to their employees. This is partly due to the fact that a smaller pool of workers is likely to face higher costs and also simply a result of the fact that arranging insurance can involve a substantial commitment of a business owner's time. However, not providing insurance can leave small businesses at a serious disadvantage in hiring and retaining workers compared with larger competitors.

Several studies have examined a "job push" pattern, where workers leave jobs with which they were otherwise satisfied in order to find a job that provides health insurance. This pattern was most closely examined in a 1997 study that used the National Longitudinal Youth Survey.<sup>4</sup> This study examined job changes among men between the ages of 20–27 in 1989. The sample had 5,305 job spells.

This study found that married men working at jobs without EPHI were substantially more likely to quit their jobs when their

<sup>3</sup>Baily, James. 2013. "Health Insurance and the Supply of Entrepreneurs: New Evidence from the Affordable Care Act's Dependent Coverage Mandate." Available at SSRN: <http://ssrn.com/abstract=2230099>

<sup>4</sup>Anderson, Patricia M. 1997. "The Effect of Employer-Provided Health Insurance on Job Mobility: Job Lock or Job Push?" Unpublished Paper, Dartmouth College.

spouse became pregnant. This would seem to imply that workers became more concerned about finding insurance through an employer when they suddenly faced a greater need for insurance. While most of the research on this topic has focused on the extent to which EPHI discourages workers from leaving a job where they have insurance, this study and others provide evidence that the need to get insurance is also an important factor leading workers to leave jobs that do not offer insurance.

For this reason, the ACA should be an important factor in leveling the playing field for many small businesses. Since workers will now be able to buy affordable insurance in the individual market, they will not feel the need to leave jobs that don't provide insurance in order to make their families secure.

### **The Impact of the ACA on Health Care Costs**

There has been a lot of attention given to the ways in which the ACA may lead to higher insurance costs. Specifically, by setting minimum standards for acceptable policies, there will be cases where individuals or employers have to pay more than they did when they held policies that did not meet these standards. While there are cases where the ACA has caused some policies to cost more, it is important to note that this is against a backdrop of sharp slowdown in health care costs. Health care costs have consistently risen as share of GDP for more than sixty years. Their share of GDP has been virtually flat in the last four years and actually fell slightly in 2013.

To get an idea of how important this slowdown in health care costs has been, in 2008 the Congressional Budget Office projected that the country would spend \$671 billion Medicare in 2014.<sup>5</sup> The most recent projections show that the government will spend just \$603 billion in 2014, a savings of 10.1 percent.<sup>6</sup> Most other areas of health care spending have seen a comparable slowing of costs. This means that most health insurance policies will cost less in 2014, even with the requirements imposed by the ACA, than if health care costs had continued on their previous trajectory and the ACA had not been passed. If this slower growth persists then the savings will be even larger through time.

At this point the causes of the slowdown in health care cost growth are not clear. While the economic downturn in 2008 was undoubtedly a factor in the slowdown, the recession can't explain why cost growth has remained slow even as the economy has recovered in the last few years. It will take longer to determine the extent to which cost containment provisions in the ACA have been responsible for slowing the growth in health care costs, but they almost certainly played some role in this dramatic reduction in the pace of health care inflation.

This is certainly good news for employers who provide health insurance coverage. Most immediately this has lessened an impor-

<sup>5</sup> Congressional Budget Office, The Budget and Economic Outlook: Fiscal Years 2008–2018, Table 3–1.

<sup>6</sup> Congressional Budget Office, The Budget and Economic Outlook: Fiscal Years 2014–2024, Table 3–1.

tant source of cost pressure on businesses. In principle, this slower pace of cost growth should allow workers to earn higher wages in the years ahead.

### **Conclusion**

The main motivation for the ACA was to extend insurance coverage to people who did not have it; however the law will also have important implications for the labor market. A substantial body of research implies that workers who previously felt tied to their jobs because of the need to get insurance from their employers will now more readily change jobs. Many more workers will also be willing to experiment with starting their own businesses.

In addition, many workers had previously left jobs that did not offer insurance in order to find a job that did. Now that workers are able to get insurance in the individual market, more workers will remain employed at small businesses that are not able to offer insurance.

Finally, there has been a sharp slowdown in health care cost growth over the last six years. The ACA was one of the factors behind this slowing of health care inflation. This has substantially reduced the cost of most insurance policies compared with their prior path. This will lead to large savings for businesses that provide insurance.

For these three reasons, the ACA has been a substantial benefit for small businesses. This will become more apparent as the impact of the law is increasingly felt over the next few years.

**Statement of Todd McCracken, President and CEO  
National Small Business Association  
Before the House Small Business Subcommittee on  
Contracting and Workforce  
United States House of Representatives  
March 6, 2014**

Mr. Chairman, and Members of the Subcommittee:

I am Todd McCracken, President and CEO of the National Small Business Association (NSBA). The NSBA is the nation's oldest small-business association, focusing on advocacy for small companies since our beginnings in 1937.

Thank you for inviting us to speak today about one of the most vexing problems facing small businesses, the enormous costs and ongoing uncertainty surrounding our health insurance system. NSBA has long ranked health care reform and cost containment as one of our highest priorities. We are deeply troubled by the ongoing difficulties our health care system creates for small businesses and their employees, and by the fact that the most recent national effort to reform the health care system has made many of these difficulties even worse.

**Escalating Small Business Health Insurance Costs**

In February, NSBA released its 2014 Small Business Health Care Survey which shows how America's small businesses are dealing with rising health care costs, what kind of benefits they offer and how the *Patient Protection and Affordable Care Act* (PPACA) is impacting their businesses. The survey confirmed what has been widely reported about health care costs for our smallest companies: they are rising steeply, and entrepreneurs are deeply concerned about what the future might hold. Unfortunately, these rising costs are not new. Small firms have been facing, oftentimes, double-digit increases in the cost of their health care over the past two decades. Unfortunately, PPACA has done little to stem these increases, and could actually make it worse for many small firms.

Though we continue to hear that medical inflation is down and overall health care costs are rising only slowly, evidence of such trends is hard to find in the small-business community. In the NSBA survey, 91 percent of businesses reported increases in their health plan premiums at their most recent health insurance renewal, with one in four being hit with increases exceeding 20 percent.

Since 2009 (the first time NSBA conducted a similar health care survey), the average per-employee health premium reported in the survey has increased by 90-percent. During this same period, growth and profits have been stagnant. It is little wonder that

small-business owners are focused on this cost center, openly wondering whether the current regime is a system they can continue to afford, and increasingly worried that PPACA will only add to their miseries.

Remember, these costs have real-world implications: the NSBA survey shows that one-third of small businesses held off on hiring a new employee and more than half say they held off on salary increases for employees as a direct result of high insurance costs. Of course, these employment decisions are both a reflection of current costs and a window into uncertainty about what the future may hold, both for the economy and the health care system.

Despite its volatile costs and complexity, health insurance is a key component to small firms' benefits package. The NSBA survey also found that while the majority of employers think offering health insurance is very important to recruiting and retaining good employees, just 51 percent of the smallest firms are able to offer health benefit. Of the 70 percent of small firms overall that do offer health insurance, the majority report paying for more than half of the cost of their employees' plans.

Today the average monthly per-employee cost of health insurance premiums for a small firm is \$1,121. When asked in 2009 for the estimated monthly cost of their health benefits package, per employee, small firms reported \$590 per month.

### **The Self-Employed and the Individual Health Insurance Market**

Of course, we are here today to explore those particular and unique issues faced by our smallest members, the self-employed. These business owners generally do not have employees, so they purchase their health insurance in the individual market in the vast majority of states. These markets are undergoing the most significant changes as a result of PPACA.

Though the degree of change varies according to the rules previously existing in a state, PPACA has brought three areas of significant reform to the health insurance market place:

1. **Rating Rules.** PPACA has imposed much tighter "age bands" than previously existed in most states, limiting the variation of premiums between the oldest and youngest policyholders. At the same time, the law eliminates the ability of insurers to rate on the basis of health status. While these changes ameliorate premiums for some older and sicker individuals, average premiums for most actually rise, in some cases quite steeply.

2. **Guaranteed Issue.** The law requires insurers to accept all applicants regardless of health status (and then set premiums without regard to health status; see above). While this provision—in theory—is necessary to achieve universal coverage under an individual mandate system, it clearly increases premiums by allowing some to circumvent the mandate and only purchase insurance once they "need" it. It is still an open

question to what degree the individual mandate will limit this behavior.

**3. Minimum Benefit Requirements.** PPACA imposes mandatory benefit requirements that are greater than had been imposed by many states, and greater than individuals might otherwise have purchased for themselves. By imposing these additional costs, the law makes it less likely that younger and healthier individuals will see the “value” in purchasing coverage, leaving higher average premiums for the rest of the market. These requirements have also been a prime driver in the cancellation of current policies, since they do not meet the new PPACA minimum benefits.

In combination with the individual mandate, the rules outlined above create a scenario where most health insurance premiums in most places for most individuals—and the self-employed—are going up, at the same time that small businesses are being crunched to find savings and reduce spending across the board. The confluence of these forces requires our nation’s self-employed individuals to make very difficult choices. And when combined with the bungled roll-out that so far has characterized PPACA and the exchanges, small businesses have little faith in the potential for improvement and an ultimate positive outcome.

The high costs and complexity they face today, combined with enormous uncertainty around any future improvement, have conspired to make many small businesses re-think whether their companies should continue to be entangled in the provision of health insurance. Of course, there is no such choice for our nation’s self-employed. Whether health insurance is an individual or employer responsibility, they cannot avoid participation. So, how can we improve the current law, so that it keeps costs in check and better meets the needs of most of the self-employed?

### **Solutions for the Self-Employed**

While we would like to see a “do-over” of this law, we think the following reforms are key changes that could specifically improve the law for the self-employed in the near-term:

- **Adjust Rating Bands.** The current 3:1 allowable age rating ratio is a primary factor in driving up premiums for current policyholders. It would be wise to widen these age bands (perhaps to 5:1) at least until the efficacy of the employer mandate can be evaluated over time. The narrower the rating bands, the higher the average premiums will be. And the biggest *increase* in premiums will be for younger (and likely healthier) workers, putting a finger on the scale of their cost/benefit analysis for purchasing coverage. Will the mandate be sufficient to keep these individuals in the market? We simply don’t know. Until we have a clear sense of the effect of the mandate, we should not give more incentives for healthier individuals to flee the market.

- **Allow the Self-Employed to fully deduct health premiums against their for self-employment taxes.** In 2003, small-business owners finally were able to deduct all of their

health insurance expenses against their *income* taxes. Unfortunately, we are still only part of the way to real health insurance tax equity for small businesses and the self-employed. Currently, employees are allowed to treat their contributions to health insurance premiums as “pre-tax,” whereas business owners are not (owners of pass-through entities are generally not defined as “employees”). This distinction means that those premium payments for workers are subject neither to income taxes, nor to FICA taxes. While the self-employed owner of a nonce Corporation can deduct the full premium against income taxes, that entire premium is paid after FICA taxes.

Compounding matters, these business owners pay both halves of the FICA taxes as employer and employee (the so-called self-employment tax) on their own income for a total self-employment tax burden of 15.3 percent. The average cost—nationally—of a family policy has been pegged at \$16,000 for 2013. A business owner who makes \$60,000 and purchases this plan for his or her family pays over \$2,400 in self-employment taxes on that policy. An employee who makes \$60,000 and has the same plan pays nothing in income or FICA taxes on that policy. By treating this business owner the same way that everyone else is treated in this country, we can give entrepreneurs an immediate 15-percent discount on health insurance premiums.

Thank you again for the opportunity to speak before you and to address these questions on the minds of so many of our smallest businesses and start-ups. Health insurance and its associated costs can often be a barrier to the innovation and growth that our country so desperately needs. I look forward to your questions and a continuing dialogue.



**Testimony of Alan Schulman  
on Behalf of the Council for Affordable Health Coverage and  
the National Association of Health Underwriters  
before the U. S. House of Representatives Small Business Committee  
Contracting and Workforce Subcommittee  
Hearing on "ObamaCare and the Self-Employed: What About Us?"  
March 6, 2014**

Good Morning. My name is Alan Schulman and I am a small-business owner from Rockville, Maryland. I own an insurance agency called Insurance Benefits and Advisors, and like more than 20 million other Americans, I am self-employed. I am here on behalf of my professional association, the National Association of Health Underwriters (NAHU), which represents approximately 100,000 health insurance agents, brokers, general agents, consultants and other employee benefit specialists from all over the United States, as well as the Council for Affordable Health Care, a broad based coalition of insurers, employers, patients, consumers, pharmaceutical manufacturers and providers—united in the belief that health costs are too high and must come down so that American living standards can start growing again.

I will focus my remarks today on three key issues:

1. The major impact of the health reform law for small businesses and the self-employed won't be fully felt until later this year or in 2015;
2. ACA's mandates, rules and changes to insurance will increase costs for these employers, making coverage options less attractive for employers and their workers; and
3. There are practical and bipartisan solutions to the problems faced by small businesses.

First of all, I would like to thank the House Small Business Committee and, in particular, Chairman Graves, Ranking Member Velazquez, Subcommittee Chairman Hanna and Ranking Member Meng for inviting me here today and for electing to hold this public hearing. Often, the impact of the Patient



Protection and Affordable Care Act (PPACA) on small-business owners like me and many of my clients is down-played because we are not subject to the employer mandate. Really though, this law's impact on all businesses extends far beyond the mandate, with small business owners hit particularly hard. The health plan design changes, new taxes, premium increases, new options and related new rules for small businesses all are being phased in this year—2014. For us, no new requirements have been delayed. I appreciate your committee's recognition of the fact that small businesses and self-employed people are in the middle of a seismic shift due to health reform and your bipartisan willingness to bring this fact to the public's attention.

#### **Upheaval and Uncertainty Due to Changing Regulatory Landscape**

As I mentioned, I am the owner of a small business, but I also have a client base composed of many other small-business owners. I serve the health coverage needs of my clients by helping them purchase, administer, service and utilize health insurance policies and other related benefits. Almost all of my clients are either self-employed individuals or businesses with less than 50 employees, which, as you know, is representative of the vast majority of American employers. I also represent individuals and companies all over this region, with about 50 percent of my clients based in Maryland, 25 percent in Virginia and 25 percent located right here in the District of Columbia.

Small businesses and self-employed individuals will be experiencing many changes, both large and small, this year to their health plans, and in turn this will impact how they will offer benefits to their employees, or if they will even be able to offer them at all. As I mentioned, the vast majority of new



requirements will hit the small business owner at some point during 2014. Small employers renew their health plans year round, and almost all of the new requirements that affect us take effect on the anniversary of a small business's plan year in 2014.

Last year, a variety of circumstances, including new regulations from HHS about small business health plan participation requirements, a push from health insurance issuers, and the Administration's new policy to extend health plan options the small employer liked but are bound to change and the resulting state reactions to that policy directive, caused a huge number of small employers to change the anniversary date of their health plans to December 1.

Amongst my client base, 80 percent of small employers made that switch. What that means is that for these clients and their employees, the major changes will take effect December 1, 2014. But what it also means is that the major impact of the law on small employer health plan design options and related costs will begin this coming August, September and October, when these employers begin the process of reviewing their new health plan options for the year ahead. In most cases, small employers will see at least an estimate of their new premium rates and the reform-required changes to their plan for the first time in September of 2014, but no later than next October 15. That's when self-employed individuals and companies with up to 50 full-time employees will need to start making some important decisions about their benefit plans, including, what kinds of plans they offer, who they offer coverage to, how much they pay towards coverage for employees and their dependents and whether or not to continue offering coverage at all.



Many in the small employer community don't know what's about to hit them, but there are still quite a few very small employers who are redoing their benefit plans for 2014 right now and are currently experiencing some of the consequences of the new law and its regulations—both intended and unintended.

#### **Group Versus Individual Coverage**

For self-employed individuals, one of the biggest and unexpected changes is trying to figure out if you are eligible to purchase group health insurance at all. Before health reform, in some states if you were self-employed you had to purchase individual coverage, but in others you were considered a small group. By extending the definition of a small group from 1-100 most self-employed small business owners (many of whom work with their family members, such as a husband/wife group) assumed they would have access to all of the benefits group insurance provides. In general, these people are not subsidy eligible, and given all of the problems with the exchanges, few of them are very excited about using that health coverage option and were looking forward to group coverage. However, today their status is very unclear. The way the implementing regulations have been written, these employers are not eligible for SHOP coverage. If they are incorporated as an S-Corp, which many are, then the new rules require that they must buy individual coverage. At first, it appeared that if the business was a C-corp, then they would be considered a group because the family members may be treated as employees, but guidance released from the CMS just this past Friday indicates that these employers may not be groups at all. Naturally, all of this confusion is problematic for small employers, particularly for



people like me who are trying to advise people about their legal options. It's pretty tough when those options change on a day-to-day basis!

#### **Increased Costs for Small Businesses**

Another very big and unexpected change for small employers nationwide is the impact of modified community rating and the way HHS has decided to rollout out its related age bands for fully-insured small group plans. There's been a lot of studies done and attention paid to the rate shock small employers are going to feel this year due to the new health insurance premium tax and moving to age bands to just three to one nationwide this year, given that 42 states previously had much wider age bands. Bipartisan legislation, H.R. 763, would repeal the annual fee on health insurance providers enacted by PPACA and the bipartisan LIBERTY Act (Letting Insurance Benefit Everyone Regardless of Their Youth), H.R. 544, would fix the narrow age band aspect of the problem by allowing states to determine the age discount in their insurance market. Should a state fail to act, the legislation establishes a five to one rating band, which better reflects the correlation between age and health care costs. However, in addition to the price impact of the law's current very narrow age bands, there is also a serious emerging problem for small employers due to the way HHS has chosen to implement the age band requirements.

Before health reform, small group health insurance rates did reflect the overall age breakdown of all the employees in the group. However, employers and employees never saw that breakdown because they received what is known as a "composite rate" so that all employees in the group were charged the same



for their coverage choices. Presenting employers with a composite rate was not just an important administrative convenience. It was also an important protection for both the employer and employees against age discrimination. Now, due to the way the age band rules were written by HHS, it's virtually impossible for an issuer to give an employer a composite rate, and instead each employee gets an individual rate that varies based on their personal age.

The impact on small employer plans is startling.

#### **Real World Examples Abound**

Due to HIPAA privacy constraints, I cannot give all the details, but the following is a real life example from one of my employer groups. The employer is based in this region and has between 20-30 employees. Previously the employer contributed \$200 a month to each employee towards their group health plan coverage. Last year the overall composite rate for the entire group for single employee coverage was approximately \$310 a month, so the employer was paying about 2/3<sup>rd</sup>s of the coverage costs for all employees and the employees each would pay about 1/3<sup>rd</sup>. This rate reflected the costs of all of the employees on the plan, who range in age from their 20s to 50s.

Just this past month, I "shopped" for a group plan for this employer looking at ALL of the health plan options available in the state. The best scenario for fully-insured group coverage I could come up with had a rate of approximately \$325 a month for the youngest employee and over \$900 a month for the oldest. Naturally the employer was extremely distressed, and not just because of the increased costs.



The idea of explaining to the older employees on the plan just how much more they will have to pay is unsettling, and my client was truly afraid about potential legal costs should an employee file a complaint. My client considered dropping coverage altogether, but ultimately moved to a level funding arrangement which exempts his plan from both the age bands and the new health insurance premium tax, which in my industry we call the HIT. The scenario I just described isn't unique to my clients. It's going to happen to small business owners nationwide each month this year, with the bulk of them learning about this problem next fall.

#### **If You Like New Your Plan...It is Less Flexible**

Very small employers also face significant changes in plan choice options. President Obama famously campaigned on "if you like your health plan you can keep it." Millions of Americans with individual coverage found out that wasn't exactly true this past January 1. Many millions more small employers and their employees are going to find that out for themselves over the course of this year too, again with the bulk of them finding it out at some point this fall. Prices for many are increasing, but in addition, their plan options are going to change. The new law imposes a deductible cap of \$2000/\$4000 for small employers only, which will make it much harder for employers to offer their employees consumer-directed health plan options, since the cap cannot be offset with a HSA or an HRA and unfairly targets the small-business community. I want to make this point clear: the cap only applies to small groups; it has no peer requirement for individuals or companies like IBM.



H.R. 2995, a bipartisan bill to repeal this cap, has been introduced by Congressman Tom Reed, a Republican, and Mike Thompson, a Democrat. CAHC commissioned a study by Avalere that found enacting the bill would encourage more employers to retain coverage, thereby lowering premiums subsidy costs by \$1.2 billion over ten years. My hope is that every member of this Committee will cosponsor the bill and that this Congress will take action to restore health plan choice options for small employers.

The law's new out-of-pocket limit cap is also problematic, since many small employers previously had high deductible plans that they offset with health reimbursement arrangements to shield employees from the costs, and those higher deductible plans are now not allowed. HHS has also implemented the out-of-pocket maximums in a way that conflicts with longstanding benefit practices and makes them very hard for carriers and employers to administer. The essential health benefit requirements are also changing the plan choices being made available to employers and often times just making them more confusing. The requirements related to covering pediatric vision and dental are complicated and inconsistent and barely understandable to seasoned benefit professionals and issuers. For the small employer just trying to run his or her company, they are mind-blowing!

#### **Conclusion**

I've given you some real life examples of how the law is impacting me and my clients, and the bottom line is: The new law has great potential to add cost and complication to the employee benefit plans very small employers offer too. Large employer concerns may command more of the media and regulatory



agencies attention, but I am here to tell you today that health reform's compliance and cost burden is causing a great deal of anxiety and disruption on the part of virtually all American employers, including self-employed guys like me. It is making employers large and small change their hiring practices, begin investigating ways to get out from the law's requirements, such as exploring other ways of providing coverage to their employees that the private market may offer, or consider dropping coverage altogether.

I've made my living helping people buy private health insurance coverage for more than 30 years, and I can tell you with absolute certainty that when prices go up and requirements get too complicated, both individual and business consumers buy less health insurance coverage or simply forgo it altogether. Since the financial impact of these new requirements will be much greater than the minimum penalty for those who choose not to buy health insurance, I am very worried that new costs and plan changes will tip people over the edge and they will decide to go bare. Given that the law's new guaranteed-issue requirements mean that people will be able to pop back into the coverage system without regard to any preexisting condition, there is a real concern that without the ease employer sponsored insurance offers, there will be an incentive for younger and healthier people who are working and may not qualify for subsidies to forgo purchasing insurance until they need medical care. In the insurance industry, that phenomenon is called adverse selection, and it will make the cost of health insurance even higher for everyone.



But I have highlighted the bipartisan solutions to some of these problems throughout my statement.

My hope is that Republicans and Democrats can rally around these solutions because small businesses and the self-employed are facing real problems right now.

I truly appreciate the opportunity to provide my testimony to your committee today. I look forward to answering any questions you may have. Thank you.



**National Association  
for the Self-Employed**

Legislative Office  
325 7th Street, NW, Suite 250  
Washington, DC 20004  
P: 202-466-2100  
F: 202-466-2123  
[www.NASE.org](http://www.NASE.org)

**TESTIMONY OF CHARLIE ARNOLD**  
**PRESIDENT/OWNER OF ARNOLD POWERWASH LLC**  
**ON BEHALF OF**  
**THE NATIONAL ASSOCIATION FOR THE SELF-EMPLOYED**  
  
**BEFORE THE HOUSE SMALL BUSINESS COMMITTEE,**  
**SUBCOMMITTEE ON CONTRACTING AND WORKFORCE**  
  
**“OBAMACARE AND THE SELF-EMPLOYED: WHAT ABOUT US?”**

**MARCH 6, 2014**

A large, solid black decorative shape at the bottom of the page. It has a curved, wave-like top edge and a flat bottom, resembling a stylized 'U' or a wide, shallow bowl.

Chairman Hanna, Ranking Member Meng, and Members of the Subcommittee, thank you for the opportunity today to offer the self-employed's perspective on the Affordable Care Act (ACA) and to share with you its impact on those of us trying each and every day to keep our businesses afloat so that we can leave a lasting legacy for future generations.

My name is Charlie Arnold and I am the President and owner of Arnold Powerwash LLC, located in Lewes, Delaware. Arnold Powerwash is a family-owned, professional power washing company organized in commercial and residential divisions, cleaning all types of exterior surfaces, along with fleet washing and dry ice blasting divisions.

Like many self-employed, I wear various hats—from small business owner to community leader. In addition to owning and operating Arnold Powerwash, I am also proud to serve as the Pastor of Seaside Baptist Church and as the Emergency Medical Services (EMS) Captain for the Lewes Fire Department. Finally, it is in my role on the Member Council of the National Association for the Self-Employed (NASE) that I am offering today's testimony. The NASE is our nation's leading advocate and resource for America's 23 million self-employed and micro-business owners. It is in all of these roles that I am able to provide a unique perspective and first-hand experience regarding the impact of the Affordable Care Act has had on the nearly 23 million self-employed Americans, the largest potential consumers of Obamacare.

At first glance, the impact of the ACA on my business appears to be limited. I currently have only two full-time employees and several seasonal employees defined as "leased" employees. Yet, I have found myself in a continued state of confusion to the status of my current health care coverage. As well as the additional confusion caused by the restrictive actions taken by both the Departments of Treasury and Health and Human Services toward the rules governing Health Savings Accounts (HRAs), and the continuing disparity faced by the self-employed versus "big business", namely the two reprieves given by the Obama Administration to larger businesses in the last year that grants them freedom from complying with the new law. However, the self-employed are left having the March 31, 2014 enrollment deadline looming over our heads, while we are forced to confront the potential for possible penalties for not enrolling in Obamacare.

Since October 1, 2013, the self-employed have been caught between a rock and hard place, trying to navigate the complex nature of the requirements under Obamacare and how it impacts us, our families, and our businesses. In fact, in a survey conducted by the NASE leading up to open enrollment in the Exchange Marketplace, 60% of respondents said they thought there was a "low" or "very low" chance they'd be able to secure both affordable and comprehensive coverage in 2014.<sup>1</sup>

<sup>1</sup>"Majority of Small Businesses Feel They Will Be Unable to Secure Comprehensive, Affordable Health Care in 2014" <http://www.nase.org/Research/NASESurveyResults/2013/11/21/new-survey-majority-of-small-businesses-feel-they-will-be-unable-to-secure-comprehensive-affordable-health-care-in-2014>

We can all acknowledge the launch of the Exchange Marketplace was fraught with confusion. The last minute cancellations of millions of health care plans was both unexpected and detrimental to many Americans—many who were assured their health policies would be carried over as “grandfathered” plans. This was especially challenging for the thousands, if not hundreds of thousands, of self-employed small business owners who had these types of plans and had not been previously planning on purchasing health care via the Exchange Marketplace.

For example, an NASE member in Illinois had no intention of enrolling in a new health care plan via the Exchange Marketplace, because she had a grandfathered health care plan. As head of the household, her plan covered not just her and her husband, but also an adult child with severe disabilities. Eventually, after President Obama attempted to salvage the millions of plans that were cancelled, she decided to pursue her options via the Exchange Marketplace. But, this was proven to be a disaster for her and her family. Since their enrollment, she has experienced higher than anticipated costs, especially for prescription medication needed to care for her disabled son. In fact, several medications were not allowed under their new plan, and they have since had to jump through hoops to get approval for medication essential for their son’s care.

I, myself, find the situation to be perplexing as I try to determine the best course of action for my business. For example, while I have two full-time employees, myself and my wife, I sometimes employ seasonal workers throughout the year to help me manage the workload during busy periods. This allows me to manage cash flow and overhead in order to keep my business afloat in lean times. These seasonal employees are “leased” through a professional employer organization. Late last year, the Department of Treasury released regulations suggesting that businesses who hire workers through temporary and employee leasing agencies may find themselves deemed to be co-employers with the agencies and, thus, are jointly and severally liable with the agencies for ACA penalties.<sup>2</sup> To say this was unexpected is an understatement. The bottom line is that this decision could single-handedly bankrupt my business. This is a prime example of how the agencies tasked with implementing the Affordable Care Act have manipulated the legislative intent of the law. Congress must act in order to ensure that small businesses, like mine, are able to utilize seasonal or “leased” employees, without facing additional costs, an unintended consequence of ACA compliance.

Another unintended consequence of the implementation of the Affordable Care Act is another interpretation by the Department of Treasury, Health and Human Services, and Labor in regards to Health Reimbursement Arrangements “HRAs”. HRAs are both a popular and effective tool for the self-employed and micro-business community that allows for an employer to provide reimbursement to an employee for health related expenses. The employer must offer this arrangement to each employee at the same reimbursable rate, **which provides a unique and flexible way for micro-**

<sup>2</sup> <http://www.irs.gov/pub/irs-drop/n-12-58.pdf>

**and small business owners to still access individual health care coverage, even when they are unable to afford group health care coverage.** However, in technical guidance issued in September 2013<sup>3</sup>, the Department of Treasury, Health and Human Services, and Labor, determined that HRA plans could be offered by an employer *only if* they also provided a health care coverage that met the Essential Health Benefit requirements as set forth by the Affordable Care Act, regardless of company size. The NASE does not dispute that an HRA is not, nor should it be, a qualified health care plan. Nor are we advocating that offering an HRA should meet the employer mandate; however, that is not how HRAs were established or previously used by micro-or small businesses. HRAs were originally used to provide minor financial assistance to employees for the overall costs of health care, including but not limited to: out-of-pocket expenses, prescription costs, and co-pays; expenses that still exist even if an employee has purchased health insurance through the Exchange Marketplace in order to meet the individual mandate requirement. The NASE strongly objects to the guidance provided and requests that Congress seek to clarify the intent of the law. In addition, we suggest allowing for the use of HRA plans by micro-and small businesses that fall under the employer mandate threshold as a tool to help provide financial assistance to their employees in covering health care expenses.

Finally, I would be remiss if I did not echo the calls by the NASE for parity between the “big business” community and America’s smallest businesses. The self-employed and micro-business community, representing nearly 76 percent of the entire small business community, continues to struggle in meeting the ACA’s compliance requirements while our corporate counterparts continue to get a pass from the Administration. Specifically, the NASE is calling for a one-year delay in the individual mandate penalty for one calendar year—in fact, this week we anticipate that the House of Representatives will vote on H.R. 4118, *Suspending the Individual Mandate Penalty Law Equals Fairness Act*, introduced by Representative Lynn Jenkins (R-KS), which would delay the individual mandate penalty. I hope that this subcommittee, and the committee as a whole, will support the measure and provide much needed relief to those who are struggling to meet the requirements of the law. Additionally, due to the problems with the launch of the new health care system, we also urge the Administration and Congress to extend the open enrollment period until the end of 2014. This extension would allow adequate time for both individuals and small business owners to properly educate themselves about the best and most affordable health care plans available to meet their unique needs.

For the self-employed, the impact of the Affordable Care Act on us, our families, and our businesses has been enormous, but not all of those impacts have been negative. In fact, since the implementation of the Affordable Care Act, NASE members have been able to access comprehensive and affordable health care coverage in the Individual Marketplace, especially those who had previously faced

<sup>3</sup> <http://www.dol.gov/ebsa/newsroom/tr13-03.html>

barriers, such as pre-existing conditions and/or age discrimination. However, those success stories are often buried under the significant challenges too many of us are continuing to have to face. Even the simple act of enrolling in the Exchange Marketplace has placed a hardship on many of us who have attempted to navigate a complicated and too often broken system laced with misinformation, inaccurate pricing and hidden costs. **Compliance is not made any easier by the continued unilateral action taken by the Administration to delay or interpret the law without input that leads to further confusion and mistrust in the system.**

It is a challenging time for America, but I believe that together we can help identify solutions to problems that lead to a strong country that offers fair and equitable access to comprehensive and affordable health care. Now is not the time to repeal and replace this new law, rather fix it so it works for all Americans.

I, on behalf of the National Association for the Self-Employed, thank you for the opportunity to offer the self-employed perspective on how the ACA has impacted our community.

