



December 26, 2018

The Honorable Steven T. Mnuchin, Secretary of the Treasury
The Honorable R. Alexander Acosta, Secretary of Labor
The Honorable Alex M. Azar II, Secretary of Health and Human Services
Room 5205, Internal Revenue Service (IRS)
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

RE: Proposed Rule Amending Health Reimbursement Arrangements and other Account-based Group Health Plans (Docket ID REG-136724-17/CMS-9918-P)

Dear Secretaries Mnuchin, Acosta and Azar:

As a leading representative of the 28 million small businesses in America, Small Business Majority writes regarding the proposed rule change that would permit business owners to offer health reimbursement arrangements (HRAs) that employees can use to purchase coverage including through association health plans (AHPs) or short-term insurance plans, plans that are not compliant with the Affordable Care Act (ACA).

Small Business Majority is a national small business advocacy organization, founded and run by small business owners to ensure America's entrepreneurs are a key part of a thriving and inclusive economy. A core part of our work is advocating for policies that will help entrepreneurs and small employers thrive. This includes improving access to reasonable and comprehensive healthcare coverage, and we believe the proposed rule runs counter to this goal.

The Affordable Care Act has significantly benefitted small business owners, their employees and the self-employed by making it easier to access quality coverage. This is especially true for solo entrepreneurs who struggled for years to access coverage. Indeed, as of 2016, the uninsured rate for these individuals fell by 35% following the implementation of the ACA, according to data from the Kaiser Family Foundation.¹ Additionally, more than 5.7 million small business employees or self-employed workers are enrolled in the ACA marketplaces, and more than half of all ACA marketplace enrollees are small business owners, self-employed individuals or small business employees.² The ACA has also helped small businesses purchasing insurance through the small group market by reducing the rate at which annual premiums were increasing by roughly half, from 10.4% pre-ACA to 5.2% post-ACA, according to research from the Centers for Medicare and Medicaid Services.

In order for small businesses to be able to receive affordable coverage, marketplace risk pools must be robust and well balanced. While we support tools like HRAs as a way to offer increased choice to small business owners and their employees, these plans should supplement the ACA rather than undermine it. This is why we oppose the proposed rule that will allow employees to use an HRA to purchase a non-ACA compliant plan, like an AHP or a short-term, limited duration plan. AHPs and short-term plans are not required to cover essential health benefits like prescription coverage or mental health treatment. Additionally, some of these plans do not have to comply with community rating rules that prevent insurers from charging more to individuals based on factors like gender or preexisting conditions, and allow insurers to turn away buyers they deem to be too sick or expensive to insure.

¹ <http://files.kff.org/attachment/the-uninsured-a-primer-keyfacts-about-health-insurance-and-the-uninsured-in-america-supplemental-tables>, p10

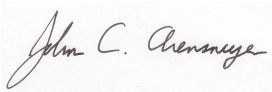
² <http://smallbusinessmajority.org/our-research/healthcare/small-businesses-see-significant-gains-aca>

Individuals likely to purchase coverage through AHPs or short-term junk insurance plans tend to be younger and healthier, leaving sicker workers in the individual and small-group marketplaces. Enabling more use of these plans through the HRA rule changes will create an unbalanced risk pool that disrupts the marketplaces and raises costs for everyone else who remains. We know from our scientific opinion polling that the cost of health insurance is a top concern for small business owners. The proposed changes would be harmful for solo entrepreneurs and small business employees by raising rates for individuals and entrepreneurs dependent on the healthcare marketplaces.

The 21st Century Cures Act, enacted in 2016, adequately addressed the need to expand the use of HRAs among small business owners. The new proposed rule goes too far in expanding their use, and this has the potential to disrupt the healthcare marketplaces that so many small business owners rely upon to purchase coverage. Widespread and unfettered use of HRAs by businesses of all sizes would undermine the employer-based health insurance system business owners and workers have relied upon for decades.

While HRAs are a valuable resource for small businesses, any changes regarding their use must not undermine the ACA. We must do everything we can to ensure small businesses can access quality, affordable health coverage so they can focus on running their businesses. This means strengthening the small group and individual exchanges, rather than enacting rules that undermine the healthcare law and create instability in the health insurance markets.

Sincerely,

A handwritten signature in black ink that reads "John C. Arensmeyer". The signature is written in a cursive style and is centered within a light gray rectangular box.

John Arensmeyer
Founder & CEO