

April 2, 2025

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RE: CMS-9884-P: Patient Protection and Affordable Care Act; Marketplace Integrity and Affordability

Dear Mr. Wu and Ms. McLean:

As a representative and advocate on behalf of America's 34 million small businesses, Small Business Majority writes to provide feedback on the proposed rule issued by the Centers for Medicare and Medicaid Services (CMS) which proposes sweeping changes to eligibility and enrollment standards for the Affordable Care Act's (ACA) Healthcare Insurance Marketplace.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. From our 12 offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enable us to educate stakeholders about key issues impacting America's entrepreneurs, with a special focus on the smallest, most under-resourced businesses.

As CMS continues to evaluate the finalization and impact of this proposed rule, Small Business Majority urges the agency to consider the following comments and recommendations to prevent adverse impacts on the millions of small business owners, self-employed entrepreneurs and small business employees who rely on the ACA Marketplace for healthcare coverage each year.

While most workers rely on their employer for health insurance coverage, small businesses, particularly those with fewer than 10 employees, cannot afford to offer employer-sponsored coverage to their employees. While nearly all (98%) of larger businesses with 200 or more employees offered healthcare benefits to their employees in 2023, just 50% of businesses with 3-49 employees and 39% of businesses with 3-9 employees offered healthcare benefits to their employees.¹

Small Business Majority's most recent national polling on healthcare found that for small businesses that do offer coverage to their employees, barriers including rising healthcare costs such as premiums, deductibles, copays and hospital visits, are significantly impacting their bottom line and forcing business owners to make difficult decisions that impact their employees' wellbeing.² Our polling found that small businesses were most likely to address rising costs by increasing employee contributions to health plans, moving to plans that offer more limited coverage, cutting other employee benefits or dropping healthcare coverage altogether. This not only creates a competitive disadvantage for our nation's smallest businesses

¹ "2023 Employer Health Benefits Survey." KFF. October 18, 2023. <https://www.kff.org/report-section/ehbs-2023-section-2-health-benefits-offer-rates/>

² "Opinion poll: Small businesses struggling with rising healthcare costs, support bipartisan policy solutions." Small Business Majority. February 21, 2024. <https://smallbusinessmajority.org/sites/default/files/research-reports/poll-small-businesses-struggling-with-healthcare-costs.pdf>

as they continue to struggle to hire and retain qualified workers, but forces millions of small business owners and employees to find coverage elsewhere or simply go uninsured.

Small business owners and their workers disproportionately rely on the ACA Marketplace for access to affordable healthcare coverage

For the millions of small business owners and employees who do not have the ability to obtain health insurance through employer-sponsored coverage plans, the Affordable Care Act (ACA) Marketplace has played an essential role in expanding access to affordable healthcare coverage for the small business community. In fact, more than half of all ACA Marketplace enrollees are small business owners, self-employed entrepreneurs or small business employees.³ In 2022 alone, 2.7 million small business owners and 1.7 million self-employed entrepreneurs received coverage through the Marketplace, accounting for 28 percent of all Marketplace enrollees.⁴ What's more, data from the U.S. Department of the Treasury also found that small business owners and self-employed entrepreneurs are three times more likely to rely on Marketplace coverage than other working-age Americans, highlighting the vital role of the ACA in enabling job creators to focus on growing their business and the economy, rather than being burdened by rising health insurance costs.⁵

The increase in ACA Marketplace enrollment among the small business community has largely been a result of the temporary enhancements made to the ACA's premium tax credits (PTCs), which help eligible individuals and families cover the cost of health insurance purchased through the Marketplace. These enhanced PTCs, which were first enacted in 2021 through the American Rescue Plan Act (ARPA) and later extended through 2025 by the Inflation Reduction Act (IRA), expanded eligibility to individuals with income levels above 400 percent of the federal poverty line, an income level into which many small business owners fall. In 2022, over 2.7 million small business owners and self-employed entrepreneurs claimed the PTC, including roughly 285,000 individuals who would not have been eligible for the tax credit if not for the enhancements.⁶

The enhancements made to the PTC have not only cut premium payments nearly in half, allowing small business owners and their employees to keep more of their hard-earned money, but have also expanded access to healthcare coverage overall. In 2025, a record 24.2 million individuals enrolled in healthcare coverage through the ACA and roughly 93 percent of Marketplace enrollees rely on the PTC to make their coverage more affordable.⁷ Additionally, the uninsured rate of small business employees and self-employed entrepreneurs dropped to record lows in 2022 thanks in part to PTC enhancements and states' continued adoption of ACA's Medicaid expansion.⁸

The Administration should prioritize expanding healthcare coverage rather than imposing stricter limitations on the Marketplace

Given the significant progress that has been made over the last decade to increase the number of ACA Marketplace enrollees and decrease the number of uninsured Americans and small business owners, Small Business Majority strongly opposes this proposed rule which aims to strip Marketplace coverage from between 750,000 and 2 million Americans, as explicitly stated in the proposed rule. While we

³ "Small businesses see significant gains from the ACA." Small Business Majority. October 16, 2018.

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

⁴ "Affordable Care Act Marketplace Coverage for the Self-Employed and Small Business Owners." U.S. Department of the Treasury Office of Tax Analysis. September 20, 2024. <https://home.treasury.gov/system/files/131/ACA-Mkt-Coverage-Self-Employed-Small-Business-Owners-09232024.pdf>

⁵ Ibid.

⁶ Ibid.

⁷ "Enhanced Premium Tax Credits for ACA Health Plans: Who They Help, and Who Gets Hurt If They're Not Extended." The Commonwealth Fund. February 18, 2025. <https://www.commonwealthfund.org/publications/explainer/2025/feb/enhanced-premium-tax-credits-aca-health-plans>

⁸ "ACA Drove Record Coverage Gains for Small-Business and Self-Employed Workers." Center for Budget and Policy Priorities. July 17, 2024. <https://www.cbpp.org/blog/aca-drove-record-coverage-gains-for-small-business-and-self-employed-workers>

acknowledge the importance of efforts to address fraud and abuse within the Marketplace, we caution the agency against pursuing strict reporting requirements and narrow enrollment deadlines, so that those who are indeed eligible to enroll in coverage don't face unnecessary burdens to do so.

Small Business Majority is particularly concerned about the agency's proposal to shorten the open enrollment period (OEP) for individual Marketplace coverage, recommending that the annual OEP should start on November 1 and end on December 15, as opposed to the current OEP which runs through January 15. While the proposed rule claims that a narrower OEP will "reduce consumer confusion", it will undoubtedly achieve the opposite as consumers have been operating under the January 15 deadline since its implementation in 2021. Restricting the OEP to just 45 days during the heart of the holiday season will also have adverse impacts on small business owners and entrepreneurs who often experience their busiest time of year during November and December. The last thing small business owners should be worried about during the holiday rush is whether they will have time to complete their enrollment, especially with a shifting deadline. This approach will no doubt lead to cost savings for CMS for obvious reasons (fewer enrollment means lower federal investments), however, this approach is shortsighted and prioritizes the need for short-term cost savings as opposed to supporting the long-term health and sustainability of our nation's top job creators.

Small Business Majority urges CMS to reconsider this proposed change to the annual OEP as the current January 15 deadline provides consumers with the necessary timeframe needed to make important decisions about their healthcare coverage. If the agency proceeds with this proposed change, CMS must implement robust outreach efforts to ensure small business owners and their workers are fully informed of any modifications to the OEP. These initiatives should be carried out in partnership with other federal agencies, such as the Small Business Administration (SBA), to ensure that small business owners and their employees can stay informed about changes made to the Marketplace through this rule, including revisions to the OEP and updates to standards for eligibility and income verification reporting.

We appreciate the agency's recognition that enrollees may need extra time beyond December 15th this year to consider their 2026 plan selection due to the potential expiration of enhanced PTCs. While we do not support shortening the enrollment period, if any changes are made, we especially urge caution about making any changes to the OEP end date before 2027. This delay would give current enrollees the opportunity to make more informed coverage decisions, as the expiration of these enhancements will significantly increase out-of-pocket premium costs and affect eligibility for millions of Americans and entrepreneurs. While millions of enrollees will face increasing premium costs anywhere between 25-100 percent if the enhanced PTCs are left to expire, it will be imperative for CMS to provide the time, education and resources necessary for enrollees to better understand the cost of their coverage options through the Marketplace moving forward.⁹ What's more, the proposal to exclude Deferred Action for Childhood Arrivals (DACA) recipients from purchasing coverage with their own money through the ACA Marketplace will disproportionately harm the estimated 12,000 DACA recipients who own their own business by further restricting where they can access affordable healthcare coverage.¹⁰ Apart from being local business owners and aspiring entrepreneurs, DACA recipients represent critical components of our nation's workforce and economic growth. However, stripping access to affordable healthcare coverage from these individuals will only harm their economic wellbeing.

The increasing number of uninsured Americans will raise healthcare costs for small businesses at a time when healthcare costs are already astronomical

While the proposed rule aims to implement additional safeguards on the ACA Marketplace to prevent improper enrollments, the specific proposals outlined in the rule will simply make it harder for Americans

⁹ "Enhanced Premium Tax Credits for ACA Health Plans: Who They Help, and Who Gets Hurt If They're Not Extended." The Commonwealth Fund. February 18, 2025. <https://www.commonwealthfund.org/publications/explainer/2025/feb/enhanced-premium-tax-credits-aca-health-plans>

¹⁰ "Despite Barriers, DACA Entrepreneurs Contribute To Their Communities." Center for American Progress. January 25, 2024. <https://www.americanprogress.org/article/despite-barriers-daca-entrepreneurs-contribute-to-their-communities/>

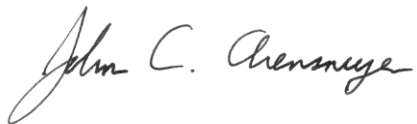
to enroll in coverage and ultimately increase the number of uninsured Americans and small business owners nationwide. While the agency estimates that this proposed rule will strip ACA Marketplace coverage from between 750,000 to 2 million individuals, it is important to also consider the forthcoming expiration of the enhanced PTCs and its anticipated impact on the Marketplace. While the proposed rule does acknowledge how the expiration of these enhancements will affect enrollment, external research has indicated that an additional 4 million people would become uninsured if Congress fails to extend the enhanced PTCs by the end of the year.¹¹

With this proposed rule and the potential expiration of the enhanced PTCs, it can be expected that far more than 2 million Americans will immediately become uninsured in 2026. As the number of uninsured Americans grows, the rising cost of care will be passed on to the insured, exacerbating imbalances in the healthcare insurance market that extend beyond the ACA Marketplace. As the cost of care rises, the small business community will continue to feel the disproportionate impacts. Small business owners may be forced to drop employer-sponsored coverage in the face of rising costs, which will encourage employees to find jobs elsewhere at larger competitors that can offer more affordable coverage options.

In conclusion, Small Business Majority strongly opposes this proposed rule due to its expected negative impact on eligibility and enrollment for small business owners, self-employed entrepreneurs, and small business employees. Small businesses across the country continue to cite healthcare costs as a major barrier to growth, which is why we urge the Administration to prioritize expanding access to affordable coverage options instead of imposing restrictive limitations on the ACA Marketplace. If this administration is serious about supporting small businesses and expanding jobs on Main Street across our nation, we must take care to consider how the impact the proposed rules will cause undue cost burdens on small businesses nationwide, in this case, by restricting access to coverage for millions of small business owners that have for decades cited healthcare costs as a top concern.

Should you have any questions or would like to discuss our comments further, please contact our Government Affairs Director, Alexis D'Amato at adamato@smallbusinessmajority.org or (202) 967-0995.

Sincerely,



John Arensmeyer
Founder & CEO
Small Business Majority

¹¹ “Enhanced Premium Tax Credits for ACA Health Plans: Who They Help, and Who Gets Hurt If They’re Not Extended.” The Commonwealth Fund. February 18, 2025. <https://www.commonwealthfund.org/publications/explainer/2025/feb/enhanced-premium-tax-credits-aca-health-plans>