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July 12, 2017

The Honorable Ms. Seema Verma
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building 200 Independence Avenue, SW
Washington, DC 20201

Submitted electronically via: <https://www.regulations.gov/docket?D=CMS-2017-0078>

Dear Administrator Verma:

There are more than 1.2 million members of the National Association of REALTORS® (NAR) impacted by the regulatory policy decisions made by the Department of Health and Human Services. As the Department works to reduce regulatory burdens to improve health insurance options, in accordance with the goals of the new Administration, due consideration of the needs of the large independent contractor workforce participating in the individual and small group markets is critical.

The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. NAR members are the individual real estate agents, brokers, and broker/owners who help consumers buy or sell homes and other types of real property. The overwhelming majority of agents are not employees of the realty offices with which they are affiliated; they are independent contractors autonomous from the real estate company itself. Forty-three percent of members are affiliated with firms that have a single office.¹ The average firm has three independent contractor licensees and no salaried staff.²

Debate on health insurance reform largely focuses on employer-provided coverage, but self-employed real estate professionals and the growing gig economy workforce are increasing in number and are owed the same attention as employees with access to an employer group plan. As more insurance companies drop out of the individual and small group market, it is more important than ever to ensure health insurance regulations create an affordable and robust health care environment.

NAR is uniquely positioned to comment on several of the proposals included in the Department's Request for Information based on its distinctive membership.³ With many real estate professionals falling in the baby boomer generation,⁴ maintaining protections for pre-existing conditions, ensuring guaranteed availability of coverage, and

¹ National Association of REALTORS® Research Division, 2017 Member Profile, (May 2017), <https://www.nar.realtor/reports/member-profile>. [Hereinafter NAR 2017 Member Profile].

² National Association of REALTORS® Research Division, 2016 Profile of Real Estate Firms, (Sept. 2016), <https://www.nar.realtor/reports/profile-of-real-estate-firms>.

³ Reducing Regulatory Burdens Imposed by the Patient Protection and Affordable Care Act & Improving Healthcare Choices To Empower Patients, 82 Fed. Reg. 26,885 (June 12, 2017). <https://www.gpo.gov/fdsys/pkg/FR-2017-06-12/pdf/2017-12130.pdf>.

⁴ The median age of a member is 53; thirty percent are over 60 years old and four percent are less than 30 years old. NAR 2017 Member Profile.



prohibiting discrimination based on age are essential to any health care reform initiative – regulatory or legislative.

At the same time, realty firms, like other small businesses, face financial difficulties when it comes to regulatory compliance and searching for affordable coverage for employees.⁵ Reducing unnecessary regulations, promoting affordability credit opportunities, and allowing states to merge individual and small group markets will result in reduced overhead costs, greater competition, and increased flexibility for self-employed and employer-provided benefits.

Empowering Patients and Promoting Consumer Choice

In a recent health insurance survey of NAR members, a majority of respondents recognized the importance of maintaining health insurance, and nearly all respondents planned to continue buying coverage, even if financial penalties for not being insured are eliminated.⁶ However, to promote uninterrupted market participation, there must be enough insurance options available at affordable prices that provide necessary coverage of care. Ensuring the freedom to choose from a variety of insurance providers offering quality coverage plans with enough premium support is key to cultivating a deep participant pool and strong marketplace.

Real estate professionals know it is important to be transparent, trustworthy, and knowledgeable when advising consumers looking to purchase a home – one of the biggest financial decisions an individual can make. Facilitating the purchase of health insurance coverage, which is an equally important decision, should be no different. Whether coverage options are made available through an online marketplace, insurance broker, or individual insurer, it is most useful for consumers to be able to easily compare plans with adequate information to make an informed choice based on their needs. Of primary importance to NAR's members are affordability, preventive health and chronic disease management services, and access to preferred providers. Delivering comparable standardized information on plan coverages and costs in a convenient, readily accessible and easy to understand manner is critical to fostering competition among providers, empowering consumers, and streamlining enrollment. It was for this reason that NAR supported the creation of the Exchanges and the *Patient Protection and Affordable Care Act's* essential health benefits requirements.

NAR has long advocated for allowing self-employed individuals to participate in the Small Business Health Options Programs (SHOP) small group markets. Doing so will increase participation and make the programs more attractive to providers, increasing insurance options for all.⁷ The self-employed are small businesses, and deserve the same purchasing power as other small businesses. Allowing self-employed individuals to enroll alongside other small employers – without imposing unnecessary regulatory requirements on either population – will stimulate success of the SHOP, minimize consumer hardships for those switching between the individual and small group markets, and most importantly, expand access to affordable coverage.

Enhancing Affordability

The health care delivery system must provide cost effective, quality coverage in an efficient and timely manner in order to be affordable and sustainable for society. In some areas, where there are few insurance options available, affordability can become the sole determining factor in whether an individual will be covered. Prior to passage of the Affordable Care Act, as high as 33 percent of NAR's members were uninsured, with affordability being a primary barrier to obtaining coverage. With the implementation of the health care law, its rating reforms, and premium credits for which a sizeable percentage of NAR's members were eligible, the latest NAR member profile revealed that 20 percent of respondents do not have health insurance coverage. To keep that from growing, as it has in the past, attention must be focused on mitigating increases and identifying cost drivers that were not considered or addressed by the earlier reform effort.

⁵ Fifty-one percent of surveyed members work with an independent realty firm, rather than a franchised company or other organization. Forty-eight percent of brokers affiliated with independent companies have sole ownership interests. NAR 2017 Member Profile.

⁶ National Association of REALTORS® Research Division, *2017 Health Care Survey*, (March 2017). [Hereinafter NAR Health Care Survey].

⁷ See Department of Health and Human Services Guidance on “The Future of the SHOP: CMS Intends to Allow Small Businesses in SHOPS Using HealthCare.gov More Flexibility when Enrolling in Healthcare Coverage,” (May 15, 2017). <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/The-Future-of-the-SHOP-CMS-Intends-to-Allow-Small-Businesses-in-SHOPS-Using-HealthCaregov-More-Flexibility-when-Enrolling-in-Healthcare-Coverage.pdf>.

Slightly over half of respondents in the NAR health care survey classified their current monthly premiums as ranging between somewhat and too expensive.⁸ Similar responses were recorded for individuals' insurance deductibles. If there are substantial market shifts, raising the overall costs of health insurance, individuals may be forced to forgo coverage, affecting all participants.

The median individual gross income of REALTORS® nationwide was \$42,500 in 2016, an increase from \$39,200 in 2015.⁹ While gross income appears to be slightly on the rise, it has not necessarily kept pace with increasing costs of living, including health insurance premiums. As a consequence, any implementation of potential market shifting regulations must take into consideration the implications for populations dependent upon the individual market and include adequate transition times and compliance safe harbors to guarantee minimal disruption for those consumers. Nearly two thirds of members are paying for health insurance on their own, while one-third of members obtain coverage from a spouse, partner, or family plan, which means unexpected and costly increases could be devastating to these self-employed and small business owners.¹⁰

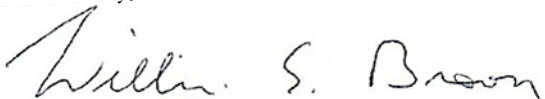
NAR supports repeal of the employer mandate. However, there is an understanding that the lack of inducements to encourage individuals to purchase insurance may result in further destabilization of the individual market, as only those with health problems obtain coverage. This would increase costs for all participants, as the high demand for care and payment of claims outweighs offsetting revenue provided by healthier enrollees filing fewer and less expensive claims. The Department must consider how consumers will handle such costs and maintain a regulatory environment that reduces consumer financial burdens, especially for those in higher age brackets, with pre-existing conditions, or limited resources like the average self-employed REALTOR®.

Conclusion

As a member organization, NAR would be concerned with any proposal that would make it more expensive for the self-employed, especially older individuals and those with pre-existing conditions, to purchase health insurance. To this end, NAR strongly believes the Department should avoid actions that would splinter the overall risk pool. Doing so would further destabilize the individual and small group insurance markets and harm certain populations disproportionately, such as the self-employed who are already subject to inequitable health insurance tax treatment.

NAR asks that you continue to keep the needs of independent contractors and small businesses in the forefront of reform efforts and looks forward to working with you on these efforts.

Sincerely,



William E. Brown

2017 President, National Association of REALTORS®

⁸ NAR Health Care Survey.

⁹ NAR 2017 Member Profile.

¹⁰ *Id.*