

Responses to Questions Posed by the Honorable Representative Blackburn

As a result of the ACA, small and midsize employers are now prohibited from utilizing employer payment plans, or reimbursing their employees for the purchase of individual market health insurance. Continuing to do so now has a \$36,500 per employee per year penalty. Many smaller businesses pursued this arrangement because they were unable to obtain or afford an expensive small group health insurance plan. In 2016, more businesses will be subject to this expensive marketplace. Ultimately, the ACA had led to fewer choices and costly plans and penalties.

- 1. Do you know how many businesses or individuals in your states obtained insurance through employer payment plans (sometimes referred to as health reimbursement accounts)?**

I do not have any information about how many employers paid for individual health insurance premium through Health Reimbursement Accounts (HRAs) or other pre-tax vehicles. Many states, including Montana, did not allow employers to pay for individual health insurance plans with pre-tax dollars, even before the ACA passed. In general, insurance departments do not have a way to track that information.

- 2. Does prohibiting employer payment plans and reimbursement for individual plans, like through an HRA, mean more or fewer choices for small businesses and individuals?**

Prohibiting employers from paying for individual health insurance through HRAs did not result in fewer choices for employers in Montana because other laws prohibited this before the IRS clarified its opinion on the legality of this practice. In Montana, 2016 small employer health insurance premiums for a high deductible health plan are more affordable than individual coverage. For instance, a bronze small employer group health plan for a 40 year old costs \$213 per month. A similar bronze individual market plan for a 40 year old costs \$264 per month. Small employers will not save money by paying for individual health insurance premiums in 2016.

- 3. Do you believe these businesses will add an expensive group benefit or drop assistance altogether?**

In Montana, we do not have any evidence that would indicate that large employers have dropped coverage. Many large employers operate “self-funded” health plans, and insurance departments do not collect data on self-funded plans. Enrollment in large group commercially insured health plans has not declined; in fact, since 2011, it has increased by 17%.

Enrollment in small employer group health plans has declined slightly since 2013. My staff believes that this is because many small employers are family owned businesses employing only family members and some of them are in fact, better off purchasing

individual health insurance through the marketplace. Also, a significant number of small employers moved to self-funded multiple employer welfare arrangements (MEWAs).

Responses to Questions Posed by the Honorable Representative Brooks

- 1. In the National Association's letter to House leadership, NAIC said "the flexibility afforded to states with immediate passage of H.R. 1624 will help ensure stable small group health insurance markets that reflect the unique characteristics and dynamics at play in each of the states. Without it, a series of market disruptions could occur." Can you explain why it's important Congress act quickly on this bill? What happens if we don't act soon?**

The NAIC encourages Congress to act quickly because most mid-size employers shop for coverage annually to ensure the best price for themselves and their employees, but they need final rates and product information by late September in order to make these decisions and carry on with the preparing of employee communications and open enrollment materials and the actual conducting of open enrollment in advance of the effective date. Those employers who may be new entrants into the market in 2016 also need to know what options will be available to them. Quick action would avoid unnecessary confusion and disruption as we move into 2016.

- 2. H.R. 1624 would allow the states to continue defining the small group health insurance market as employers with 1-50 employees. Can you talk about the standard state-level "consumer protections" that would still be in place if current policy is maintained?**

The standard state-level consumer protections are as follows: 1) large group premiums are still subject to state regulatory review and must be actuarially justified, sufficient and nondiscriminatory; 2) large group plans are subject to a higher Medical Loss Ratio (MLR); and 3) large group plans are subject to many state-level consumer protections, such as mandated benefits, grievance and appeals rights, and network adequacy standards.

- 3. What do you think are the three most important messages for consumers who are listening today to our hearing to understand the benefits of H.R. 1624?**

The following three scenarios could occur if H.R. 1624 is not signed into law: 1) employers with 51-100 employees would be subject to new rating restrictions, which could result in significant premium increases for some groups; 2) employers with 51-100 employees would face additional benefit requirements and cost-sharing restrictions, which would reduce benefit flexibility and could increase out-of-pocket spending; and 3) expansion of the small group definition could lead some employers with younger and/or healthier employees to self-insure as a way of avoiding higher premiums and limited coverage options, which could result in adverse selection in the small group pool, thus increasing premiums for employers with 1-50 employees.