



September 28, 2010

The Honorable Mike Enzi
Health, Education, Labor & Pensions Committee
Ranking Member, United States Senate
Washington, DC 20510

Dear Senator,

Representing the country's largest, oldest and most respected small business associations, the Small Business Coalition for Affordable Healthcare (the Coalition) strongly supports S.J. Res. 39 to overturn the so-called grandfather rule issued by the administration in response to the Patient Protection and Affordable Care Act (PPACA).

Earlier this summer, the Administration published an Interim Final Rule implementing the part of the healthcare law pertaining to "grandfathered" health plans. The Interim Final Rule established the criteria that employers currently offering health insurance must comply with, if they want their health plans to remain exempt from many of the new mandates in the law. The Coalition believes that the administration overstepped its regulatory authority when it issued this Interim Final Rule because the administration incorrectly concluded that it had authority to define what results in loss of a grandfathered plan.

As written, Section 1251 of the Act provides the statutory parameters for what defines a grandfathered plan. It is arguable that a goal of Section 1251 was to reaffirm a promise made by many lawmakers throughout the legislative debate – "if you like the plan you've got, you can keep it." However, Section 1251 does not prescribe how that authority is lost. In fact, neither Section 1251 of PPACA or any other provisions of the Act authorize or even contemplates post-enactment loss of grandfathered health plan status by a group health plan or employer-sponsored health insurance coverage that satisfied the requirements of Section 1251 on the date of enactment.

Yet, as issued, the Interim Final Rule appears to take that much lauded promise of "if you like the plan you've got you can keep it" and shifts that responsibility to the consumer, or in this case, the employer. Unlike Section 1251, the Interim Final Rule outlines a very tightly drawn set of rules regarding what changes an employer can and cannot make to their plan if they want to maintain the grandfathered status. This action seems to be based on an assumption that coverage choices should be narrowed in the run up to 2014 and fails to reflect that the majority of employers make changes today when confronted with premium increases. The Administration's interpretation of current statute has left many in the small business community concerned that they will have even less choice and flexibility to shoulder the increased cost of coverage. Those concerns are confirmed by the Administration's own analysis which suggests that an estimated 80 percent of small businesses are expected to lose their grandfathered status over the next three years – well before the "benefits" of the law take effect.

Perhaps of greatest concern is that the overreaching actions of the Administration fail to make healthcare more affordable or accessible for small businesses. Rather than increasing options and lowering costs, the Interim Final Rule forces small employers to either pay more to maintain grandfathered coverage, shop for a new (and more expensive) plan, or possibly drop employer-sponsored coverage entirely.

Again, the Coalition supports the Enzi resolution of disapproval regarding Interim Final Rules on grandfathered plans under the Patient Protection and Affordable Care Act (PPACA). Thank you adding your voice of concern to this debate and for your continued efforts to bring about overdue and much needed relief to our entrepreneurs – America's small business community.

Sincerely,

American Council of Engineering Companies
American Rental Association
American Road & Transportation Builders Association
AMT - The Association For Manufacturing Technology
Associated Builders and Contractors
Automotive Recyclers Association
Furniture Dealers Association
Independent Electrical Contractors, Inc
International Franchise Association
International Foodservice Distributors Association
International Housewares Association
Manufacturers' Agents Association for the Foodservice Industry
National Association for Printing Leadership
National Association of Mortgage Brokers
National Association of Wholesaler-Distributors
National Club Association
National Office Products Alliance
National Restaurants Association
National Retail Federation
National Roofing Contractors Association
National Tooling and Machining Association
Northeastern Retail Lumber Association
NPES The Association for Suppliers of Printing, Publishing and Converting Technologies
Office Furniture Dealers Alliance
Plumbing-Heating-Cooling Contractors – National Association
Precision Machined Products Association
Precision Metalforming Association
Printing Industries of America
Self-Insurance Institute of America
Service Station Dealers of America
Small Business & Entrepreneurship Council
Specialty Equipment Market Association
Tire Industry Association
Textile Care Allied Trades Association
Turfgrass Producers International
U.S. Chamber of Commerce