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Special Edition on Health Care Reform

This special edition focuses exclusively on the latest developments regarding health care reform.

Nonprofits Excluded, Overlooked, and Ignored (Again)

Despite the significant roles that nonprofits play in local communities and as partners to governments in delivering vital health, safety, education, and other services, public policymakers routinely overlook nonprofits. The most recent example has been the exclusion of nonprofit employers from health care reform.

Collectively, the nonprofit sector is quite large: 1.8 million nonprofits of all kinds employ more than 15.3 million people, which is more than the construction industry (7.2 million), the finance industry (5.2 million), the transportation industry (5.1 million), and the real estate industry (2.1 million) ([2008 data](#)). Nonprofits comprise about 10% of the civilian workforce and produce 11-12% of the GNP.

Individually, charitable nonprofits are quite small, however, with the vast majority (93.3%) having income of less than \$1 million. Small nonprofit employers are like small for-profit businesses in many ways – we create local jobs, we meet local needs, and we pay higher market costs for items such as energy and health insurance premiums for our employees. The main difference is that small for-profit employers focus on making money for private gain, whereas small nonprofit employers focus on meeting missions for public benefit. Another key difference is that small for-profit businesses can turn to the Small Business Administration for a wide variety of services – such as low-interest loans – whereas the federal government provides no similar assistance for nonprofit employers.

The White House

In July the White House Council of Economic Advisers issued [a study](#) showing that because small for-profit businesses pay up to 18% higher insurance premiums they should get a tax credit. The study, however, completely omitted small nonprofit employers, which face much higher premiums, too. When asked why nonprofits were excluded from the White House's plans, the Chair of the Council of Economic Advisers agreed to find out and get back to us. That was on July 28. We sent [a follow-up letter](#) to the Chair so she would know where to reach us. But more than 60 days have now passed without an answer to the basic question about why nonprofits have been excluded ...

When the President addressed the joint session of Congress on health care on September 9, he mentioned helping small businesses, but not a word about helping America's nonprofit sector. Likewise, the White House website notes that "The President's plan will also provide small businesses with tax credits to offset costs of providing coverage for their workers," but it is completely silent about any similar relief for small nonprofit employers – who have to pay the same higher premiums but for whom a tax credit is worthless. The New York Times asked the White House about the exclusion of nonprofits. As reported in [a September 14 article](#) ("Nonprofit Groups Upset at Exclusion from Health Bills"), "a White House spokeswoman said she had no comment because the policy was still being analyzed." That was more than two weeks ago, and again, still no answer ...

The U.S. House of Representatives

Three Committees of the House of Representatives have jurisdiction over aspects of health care reform: the House Committee on Education & Labor, the House Committee on Energy & Commerce, and the House Committee on Ways & Means. When the National Council of Nonprofits held its Nonprofit Lobby

Day on Capitol Hill in July, nonprofits from across the country met with about 100 congressional offices. The most constant refrain nonprofits heard that day when asking their elected representatives why nonprofits were being excluded from health care reform, was “gee, we hadn’t thought about nonprofits as employers needing to be included in the bill.”

Thus, while disappointing, it was not surprising that not a single House Committee voted to protect America’s nonprofits by including them in the bill. Instead, all three Committees voted to help only small *for-profit* businesses by providing them with a tax credit, a solution that provides zero relief to nonprofit employers that bear the same burden of rising health care costs. By excluding nonprofit employers, the three versions of the House bill place a greater burden on nonprofits that serve the broader community than on for-profit businesses.

Senate Finance Committee

Senator Max Baucus (Montana), Chairman of the Senate Finance Committee, has been laboring for months trying to broker a bipartisan health reform bill that would help our nation. He brought in three Republican Senators and two other Democratic Senators. They met intensively for months negotiating a bill. On September 22 the Chairman released his markup. The initial markup did not include nonprofits.

Some Forward Progress

All is not lost, however. Nonprofits have a toehold thanks to one Senate Committee and some recent added muscle from another Senate Committee.

Senate Committee on Health, Education, Labor & Pensions (“HELP”)

In July the Senate Health, Education, Labor & Pensions Committee passed a bill that does not discriminate against nonprofits. The HELP Committee’s simple and direct solution is to look at the truth and treat all “small employers” evenhandedly without regard to whether their work is designed for private gain or public benefit. According to [the Committee’s Detailed Summary](#) at page 14: “employers with 50 or fewer fulltime workers who pay 60 percent or more of their employees’ health insurance premiums will be permitted to receive program credits of up to \$2,000 per employee to subsidize coverage.” (This approach, however, will require appropriations battles every year.)

Senate Finance Committee

Once the Chairman’s initial Mark was released, five Senators quickly stepped forward to offer an immediate amendment: John Kerry (Massachusetts), Olympia Snowe (Maine), Chuck Schumer (New York), Blanche Lincoln (Arkansas), and Maria Cantwell (Washington). Chairman Baucus promptly considered their proposal, found it to be reasonable, modified it some, and then inserted it into his Modified Chairman’s Mark (rough translation: he accepted their proposed amendment without a formal vote because it made sense to him as the Chairman).

Here is the language of the modified Kerry/Snowe/Schumer/Lincoln/Cantwell Amendment (from page 34 of the [Senate Finance Chairman’s Modified Mark](#)):

“The provision extends the small business tax credit to organizations exempt from tax under section 501(a) by reason of being described in section 501(c)(3) (i.e., charitable organizations) that would otherwise qualify for the small business tax credit. However, for tax exempt organizations, the applicable percentage for the credit during Phase I is limited to 25 and the applicable percentage for the credit during Phase II is limited to 35. The small business tax credit is otherwise calculated in the same manner for tax exempt organizations that are qualified small employers as the tax credit is calculated for all other qualified small employers. Charitable organizations will be eligible to apply the tax credit against the organization’s liability as an employer for payroll taxes for the taxable year to the extent of the amount of income tax withheld from its employees under section 3401(a), the amount of hospital insurance tax withheld from its employees under section 3101(b), and the amount of the hospital tax imposed on the organization under section 3111(b). However, the charitable organization will not be eligible for a credit in excess of the amount of these payroll taxes.”

(Even this step forward, however, does not treat small nonprofits the same as small for-profits. In Phase I for-profits can take a 35% credit, while nonprofits would be limited to 25%. And in Phase II for-profits can take 50%, while nonprofits will be limited to just 35%.)

Next Steps – By Policymakers

The White House

Since the White House Council of Economic Advisers learned that it completely overlooked the nonprofit sector in its earlier report, the White House has had nine weeks to analyze why it was excluding nonprofits from health care reform. Nonprofits that have been straining financially holding up a large part of the social safety net for individuals in their communities suffering from a ravaging economy would welcome recognition by the White House that nonprofits deserve to be treated fairly.

The U.S. House of Representatives

The full House of Representatives will be considering the health care reform bill as passed by the three Committees. Members of the House who care about nonprofits can amend the bill on the House floor to protect America's nonprofits. (Any arguments about it being "too late" should be rejected – it is not too late to include an entire sector of the American economy, one that employs about 10% of the entire civilian workforce, and one that delivers vital services that the American people rely upon.)

The U.S. Senate

Once the Senate Finance Committee completes its work, then that bill will need to be merged with the version passed by the Senate HELP Committee. Then the full Senate will consider the bill and make further amendments. Indeed, nonprofits need to beware that there likely will be lots of activity in the Senate. Despite the careful and methodical attempt by Chairman Baucus to deal with issues on a bipartisan basis, the latest reports suggest that many view his efforts as creating a "rough draft" that will be re-written significantly once the bill hits the Senate floor. See [Washington Post Sept. 26 article](#) ("Baucus Bill May End Up Being a Mere Rough Draft").

Conference Committee

Once each chamber passes a bill, then their bills will be sent to a conference committee where differences will be resolved. A lot can happen behind conference committee doors. The versions of legislation that go into the conference committee room can be transformed – for better or for far worse. If nonprofits voices are not heard now, they will not be remembered when those doors shut. Therefore, if nonprofits want to be included in the final health care reform bill as signed into law, then nonprofits cannot relent: our voices must be heard that we want to be included on an equitable basis rather than left out and forgotten.

A Bigger Issue Looms

While many regard health care as the number one policy issue, the truth is that nonprofits have a challenge even bigger than health care: government officials – those who should be our natural partners because we serve the same communities and the same constituents – continue to overlook, ignore, and disregard nonprofits.

On issue after issue, nonprofits are just an afterthought. This should not be. Our communities depend upon nonprofits, time and again, for a wide variety of activities, including feeding their bodies through food banks and Meals on Wheels programs, protecting their bodies through domestic violence shelters and environmental programs, healing their bodies through health care clinics and hospitals, fueling their minds through arts & culture and schools, reducing crime through after-school programs and substance abuse centers, and nurturing their spirits through religious congregations and volunteer activities. And our government turns to nonprofits for solutions – to deliver services more effectively by using nimble nonprofits rather than monolithic government agencies and deliver services more efficiently by using cheaper nonprofits rather than for-profits that will demand bonuses and cost overrides.

Yet government forgets us, overlooks us, omits us, and ignores us when creating solutions. This is the larger issue nonprofits need to be addressing. Our voices need to be heard in the regular course of policy making, not at the end of virtually every policy issue looking for left-overs because we were left behind. This is our bigger challenge. More on that topic later. In the meantime, [nonprofits need to start beating the drum](#) to ensure nonprofits are not excluded from health care reform and are treated equitably.

Related Policy Issues for Nonprofits to Be Tracking

- **Nonprofits Cannot Handle Higher Health Costs**
 Research reveals that a third of nonprofits have had to cut services delivered because of declining revenues and escalating operating costs – especially health care costs. [National Council of Nonprofits' Special Report No. 8: "A Respectful Warning Call to Our Partners in Government: The Economic Crisis Is Unraveling the Social Safety Net Faster Than Most Realize"](#)
- **Health Insurance Costs More for Nonprofits**
 "Over a third (36%) of respondents offering health benefits reported increases of 11% or more in their total direct health insurance costs [during the last year]. By comparison, national health insurance costs are rising by an average of 5% per year." [Listening Post Communiqué No. 15: "Health Care and Nonprofits: The Hidden Dimension of America's Health Care Crisis"](#)
- **Nonprofits Want Congress to Reform Health Insurance**
 Indicative of the general mood in the nonprofit sector, 89% of nonprofits responding to a recent survey in Michigan said congressional reform of the current health care system ranks from "important" (22%) to "very important" (67%). [Michigan Nonprofit Association Survey: "Rising Health Care Costs a Concern for Michigan Nonprofits"](#)
- **"Uncharitable Charities"**
 In his [Washington Post column](#) E.J. Dionne rips professional fundraisers and others opposing an idea to cap the amount that super wealthy (those with income of more than \$370,000 a year) can deduct as a way to help pay for health care reform. Unlike the President's earlier plan that would have dropped the rate for the super wealthy to the 28% maximum that most Americans use, the latest proposal would lock in for the super wealthy their current rate of 35% for deductions rather allowing their special rate to increase to 39.6% in 2011.
- **560+ Amendments Proposed in Senate Finance Committee Alone**
 Members of the Senate Finance Committee introduced 560+ amendments to the Chairman's Mark. [Two amendments](#) (at pages 29 and 30) introduced by the Committee's Ranking Member, Senator Chuck Grassley (Iowa), have caught the eye of nonprofit organizations: one clarifying that the IRS has authority to ask questions on the 990 regarding governance and the other relating to eliminating the "safe harbor" concerning computation of executive compensation.

Please feel free to forward this e-newsletter to your staff and board members, as well as friends and colleagues at other nonprofits, so they can [sign up](#) to receive future editions of this e-newsletter and remain informed about their rights.