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American Staffing Association

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Health Care Reform for the Flexible Work Force

The American Staffing Association supports health care reform that expands access to health insurance coverage for all Americans and preserves the valuable benefits of temporary and contract work. Any reform proposal should build on the current public–private system and should comprehensively address not only issues of health insurance coverage, but also health care costs and the inefficiencies of the current health care system.

All elements of society—government, health care providers, insurers, businesses, and individuals— must participate in health care reform, and any solution should not be anchored to the traditional, employment-based, health insurance model.

America's staffing companies employ more than 11 million temporary and contract workers annually. Temporary work is a key factor in reducing unemployment and creating new jobs—and it provides a vital bridge to permanent employment. Although many staffing firms offer employer-paid health insurance coverage, few temporary employees participate because the majority work for short periods of time and use temporary work as a way to find permanent employment.

To avoid weakening the jobs bridge, any health care reform proposal should include appropriate provisions that exempt short-term temporary employees from mandatory coverage.

The Role of Staffing Firms in the Economy

The American Staffing Association and its affiliated chapters represent the staffing industry nationally and throughout the U.S. They are a prime source of information to policy makers on labor, employment, and work force issues.

U.S. staffing firms employ nearly three million temporary and contract workers per day and more than 11 million over the course of a year.[1] Staffing firms play a vital role in the economy by matching millions of people to jobs, from industrial and clerical to professional, technical, and managerial. Employees have the flexibility to set their own work schedule and can choose from a variety of diverse and challenging assignments. Staffing firms offer a wide range of benefits, including free training to help employees meet today's demand for skilled workers.

Temporary work also provides a vital bridge to permanent employment by giving employees the opportunity to showcase their skills with potential employers—about half of temporary and contract employees transition to permanent jobs.[2]

The staffing industry's expertise in quickly matching individuals and their skills to available work is a key factor in job creation and in keeping unemployment rates low. During the economic expansion of the 1990s, the staffing industry added almost two million new jobs and was identified as a key factor in reducing unemployment.[3] One

major study concluded that the staffing industry's expertise in quickly matching individuals and their skills to available work assignments accounted for fully half of the decline in the U.S. unemployment rate during that period[4]—declines that have been described as permanent.[5]

The correlation between flexible labor markets, lower unemployment, and jobs growth has been noted by former Federal Reserve Board chairman Alan Greenspan. In testimony before the U.S. Senate Banking Committee, Greenspan identified flexible labor markets as a key factor in fostering innovation and growth of new technologies, resulting in more jobs.[6] Current Federal Reserve Board chairman Ben Bernanke also has stressed the importance of labor market flexibility and policies that facilitate retraining and job search by displaced workers[7]—a key function of staffing firms.

Temporary and Contract Employees—
A Key Piece of the Health Care Reform Puzzle

The staffing industry supports health care reform that will expand access to coverage for all citizens. But it is vitally important that any reform measures do not undermine the benefits of temporary and contract work or discourage staffing firms that already offer health insurance coverage from continuing to do so. ASA supports reform proposals that will expand coverage without those negative outcomes.

Preserving the Bridge to Permanent Employment

Staffing employee turnover is inherently high—around 300% per year.[8] The great majority of staffing employees (77%) view temporary or contract work as a good way to find a permanent job.[9] In 2007, an estimated 3.9 million temporary and contract employees moved on to permanent employment.[10]

The majority of temporary and contract employees (56%) are covered by health insurance, counting all sources, including parents, spouses, Medicare, etc.[11] Many staffing firms offer health insurance benefits, but only 25% of temporary and contract employees choose such coverage. Participation in staffing firm plans is highest (49%) among contract employees—who tend to work in professional, health care, technical, and information technology occupations, and who generally earn higher wages and work on longer-term assignments.

The lowest rate of participation (8%) occurs among short-term temporary employees, many of whom use temporary work to find permanent jobs and typically opt out of the staffing firm's health insurance plan to maximize their cash income. These "temporary-to-hire" employees present a challenge to policy makers seeking to expand health insurance coverage. Any health care reform measure that imposes a higher toll on the jobs bridge will hamper temporary employees' ability to find permanent work.

What Not To Do

So-called "fair share" health care bills that simply increase staffing firm costs without fundamentally reforming the health care system will not only fail to increase health insurance coverage, but also will cost jobs and weaken the jobs bridge.

Examples of the wrong approach were bills introduced in 2006 in New York that would have assessed every employer with more than 100 employees a health care tax of $3 per hour per employee. Staffing firms earn an average net profit of less than 3% annually. A $3 per hour tax per worker would have wiped out the industry's annual profit, putting most firms in a deficit position. Staffing firms would have had no choice but to try to pass the cost on to their clients, which would have sharply reduced the use of staffing services, resulting in fewer temporary jobs, and fewer opportunities for workers to find permanent employment.

Moreover, forcing employers that currently provide good health insurance coverage at less than the mandated above-market cost of $3 per hour to pay the difference into a state fund would have destroyed any incentive to shop for the most cost-effective insurance plan. Rather than searching for the most economical plan each year, worrying about enrollment issues, and dealing with administrative burdens such as extended coverage for separated employees, employers would have simply dropped their plan and paid the tax. New York wisely rejected this approach, which would have cost jobs, increased unemployment, and made no real change in the number of people covered.

California recently joined Illinois, Pennsylvania, and Wisconsin in dropping its expensive statewide health care reform proposal. All of those proposals collapsed when it became clear that that there was no way to deliver "universal coverage" within current state budgetary constraints without first solving the problem of escalating health care costs.

Of the dozens of health care reform bills introduced since 2006, only three states (Maryland, Massachusetts, and Vermont) and two municipalities (Suffolk County, NY, and San Francisco) have actually enacted such laws.[12] Not only are such laws of dubious legality, but they don't address the fundamental shortcomings of the current health care system—in particular, the problem of escalating costs and the overdependence on traditional employment relationships.

What Can Be Done

A 2006 survey conducted on behalf of America's Health Insurance Plans—an association representing U.S. health insurers—found that 80% of U.S. adults want Congress and state legislatures to do more to extend access to health insurance. But Americans believe that reforms should build on the current public–private system rather than establish a new government-run system.

AHIP supports federal legislation to provide incentives to states to develop plans to expand access to health care coverage and proposes specific recommendations on how states can shore up their safety nets and make health care coverage more affordable. The recommendations include

- Expanding coverage for adults under Medicaid and for children under the State Children's Health Insurance Program, and encouraging eligible individuals to enroll in those programs
- Seeking federal matching funds to expand state Medicaid programs
- Increasing insurance affordability by subsidizing the premiums for low income individuals and giving employers or individuals state tax credits for premiums paid

AHIP also proposes a new tax-free "universal health account" for all Americans that could be used to buy any type of private health insurance, and allow individuals to fully deduct any premiums they pay to buy such insurance, irrespective of their employment status. Such accounts would be especially helpful to today's mobile work force, including temporary and contract employees.

Congress took an important step in this direction in 2003 when it created Health Savings Accounts, which combine a tax-free, high-deductible insurance policy with a tax-free savings account to pay smaller expenses. The AHIP universal health accounts would go further by extending HSA-type tax treatment to any type of insurance plan—even first-dollar coverage—which would make health insurance more affordable for those not covered by an employer plan. Moreover, allowing companies to fund portable health insurance policies similar to 401(k) retirement accounts would provide a further incentive to move beyond the current employer-based insurance system.[13]

The Massachusetts Model—Exceptions for Temporary Help

Unlike the "fair share" bills enacted in other jurisdictions, which relied primarily on new taxes on employers, Massachusetts took a more comprehensive approach. In addition to a tax on employers that don't meet minimum coverage requirements, Massachusetts became the first state to require most residents to buy health insurance—the so-called "individual mandate"—which some health insurance experts view as essential to success. According to John Holahan, a health economist with the Urban Institute, "If you want to get to universal coverage, then you have to do the individual mandate."[14]

Whether the Massachusetts approach is the right one, it does acknowledge the unique nature of temporary employment in two important respects. First, as ASA suggested, it helps protect the jobs bridge by recognizing that short-term temporary employees (those who work fewer than 12 weeks) should not be counted in determining whether an employer is subject to tax. Second, it provides that any tax will be based on "full-time equivalent" employees, which is essential to take into account the unusually high turnover of temporary employees.[15]

Whether, in the long run, the Massachusetts model will effectively resolve the problem of the uninsured—and at what cost—is far from clear. One problem is whether low-income residents will be able to afford to buy the coverage that the law mandates. As of Jan. 1, 2008, only 300,000 of the estimated 400,000 to 650,000 affected residents have enrolled, and some 60,000 individuals have been exempted from the law because they can't afford the coverage.

Legal Issues

Apart from the financial uncertainties, it is also unclear whether state health care mandates will ultimately withstand legal scrutiny. Last year, the Maryland law—which required large employers to pay into a state fund unless they paid 8% of their payroll for health coverage—was struck down on the ground that it violated the Employee Retirement Income Security Act, the federal law that prescribes uniform national rules governing employer benefit plans. The Suffolk County, NY, law, which was similar to Maryland's, was invalidated on the same ground, as were employer mandate provisions of the San Francisco health care ordinance.[16] The Massachusetts and Vermont laws have not been challenged thus far, but some legal experts believe that such laws are also vulnerable to Erisa pre-emption claims.[17]

The scope of Erisa pre-emption almost certainly will have to be resolved by the U.S. Supreme Court. And apart from what the Supreme Court does in a particular case, it is possible that, after the 2008 elections, a new White House and Congress will eventually enact a national reform law that will address whether and to what extent states can adopt their own rules. Regardless of the scenario that unfolds, the legal issues are unlikely to be settled in any foreseeable time frame.

Conclusion

The staffing industry supports health care reform that addresses the issues of health insurance coverage and health care costs on a comprehensive basis. But given the costs and legal uncertainties involved in developing and implementing such plans, and the possibility of federal action, states should move cautiously before weighing in with new proposals.

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[1] American Staffing Association, Employment and Sales Survey, 2007.
[2] American Staffing Association, Staffing Employee Survey, 2006.
[3] *Economic Report of the President,* February 2000, p. 89.
[4] See Lawrence F. Katz and Alan B. Krueger, "The High-Pressure U.S. Labor Market of the 1990s," Working Paper No. 416, Princeton University, May 1999, pp. 40–41; see also "In Praise of Temps," *Washington Post,* Dec. 8, 1999, p. A32.
[5] *Economic Report of the President,* January 2001, p. 73.
[6] U.S. Senate Committee on Banking, Housing, and Urban Affairs hearing on the nomination of Alan Greenspan, Jan. 26, 2000, S. Hrg. 106–526, p. 21; see also Greenspan, "Global Economic Integration: Opportunities and Challenges," remarks at a Federal Reserve Bank of Kansas City symposium, Aug. 25, 2000, pp. 2–3.

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[7] Speech before the Greater Omaha Chamber of Commerce, Omaha, NE, Feb. 6, 2007.
[8] Ibid 1.
[9] Ibid 2.
[10] Ibid 1.
[11] U.S. Bureau of Labor Statistics, Contingent and Alternative Employment Arrangements, 2005.
[12] The Maryland and Suffolk County laws were subsequently struck down by the courts. A legal challenge to San Francisco's health care ordinance is pending.
[13] See "AHIP Hop," *Wall Street Journal,* Nov. 20, 2006, p. A16.
[14] Quoted in "Simple Question Defines Complex Health Debate," *Washington Post,* Feb. 24, 2008, p. A10.
[15] The Vermont law does not cover employees who work fewer than 20 weeks in a calendar year in a job scheduled to last 20 weeks or less. A health care reform bill introduced in 2007 by Pennsylvania Gov. Ed Rendell (HB 700) requires continuous employment for at least 90 days and uses "full-time equivalent" for employee headcount purposes.
[16] A federal appeals court recently allowed the San Francisco ordinance to go into effect, but the ultimate validity of the law remains uncertain.
[17] See, e.g., "Experts Say Health Push May Violate Federal Law," *Boston Business Journal,* May 4–10, 2007, p. 1.