



CATHERINE MONSON

CEO, FASTSIGNS® INTERNATIONAL, INC.

TESTIMONY BEFORE THE U.S. HOUSE SUBCOMMITTEE ON HEALTH,
EMPLOYMENT, LABOR, AND PENSIONS

HEARING ENTITLED “EXPANDING AFFORDABLE HEALTH CARE
OPTIONS: EXAMINING THE DEPARTMENT OF LABOR’S PROPOSED
RULE ON ASSOCIATION HEALTH PLANS”

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Introduction

Good morning Chairman Walberg, Ranking Member Sablan, and distinguished members of the Subcommittee. My name is Catherine Monson, and I'm the Chief Executive Officer of FASTSIGNS® International. I am appearing before you today on behalf of both my company, our FASTSIGNS franchisees, the International Franchise Association (IFA) and the over 733,000 franchised establishments employing 7.6 million workers in the United States. Thank you for the invitation to share our views on Association Health Plans.

I have been in franchising for over 30 years, working for multiple franchisors, starting with Sir Speedy Printing Centers in 1980. I worked for Copies Now, TeamLogic IT, PIP Printing & Marketing Services and then became CEO of FASTSIGNS in 2009. FASTSIGNS, founded in 1985, is a sign and visual graphics company and is the sign industry's leading franchise system. Our network of sign centers includes 604 locations in the United States with another 37 in the process of opening, 31 locations in Canada, plus locations in the United Kingdom, Mexico, Brazil, the Caribbean, Saudi Arabia, UAE and Australia, for a total of 675 locations worldwide.

I'm passionate about franchising, primarily because over the last 30 years I've seen franchising transform lives. I've seen franchising help thousands of Americans achieve their dream of business ownership and build wealth for their families and many more find stable jobs in their communities. I have seen franchising create economic output and jobs. I have seen franchise ownership allow minorities and immigrants to create wealth and opportunity. That's why for more than two decades, I've been an active member of IFA, serving for ten years on the Board of Directors.

As many of you know, the IFA is the oldest and largest trade association in the world devoted to representing the interests of franchising. Its membership includes franchisors, franchisees and suppliers. IFA's membership currently spans more than 300 different business lines, including more than 11,000 franchisee, 1,100 franchisor and 575 supplier members nationwide. In total, IFA's members form a network of 733,000 small business establishments across the country – there are IFA members in all of your districts. They support their local economies, give back to their communities, and build businesses that provide local jobs.

Overview of AHP Impact on Franchising

I am here today to help advocate for making it easier and more affordable for local business owners to provide quality, affordable health insurance coverage to their employees. Specifically, I'm here to ask that you move forward with allowing franchise businesses and associations to form Association Health Plans, consistent with the Administration's recently proposed rule. Taking this important step will allow trade associations or multiple small employers to come together and pool their employees in order to buy quality health insurance, generating similar quality and savings as organized labor and large corporations do in the large group insurance

market. Allowing small business to band together will help lower costs, create greater flexibility, increase access, and reduce administrative expenses.

As many of you know, small businesses, such as franchises, bear a larger financial and administrative burden when providing quality health insurance benefits for their employees. Indeed, franchises and small businesses have historically struggled to provide quality health insurance benefits to employees given the constraints of the small market rules, as well as financial and administrative expense.

But if we use many of the same principles that have allowed franchising to provide economic opportunity to millions of Americans, we can also provide greater opportunities for quality, affordable health insurance coverage and health care.

Franchising is perfectly built for AHPs. Franchising uses economies of scale to help small business owners deliver affordable services and products to their customers through efficient and established distribution channels, communication protocols, and common business practices. Similarly, AHPs use a larger pool of enrollees to streamline costs and more effectively deliver quality, affordable health insurance and health care.

Based on my 30 plus years in the franchising world, I can say with confidence that the structure of the franchise model makes it uniquely suited to implement and manage quality AHPs. Franchises can effectively utilize AHPs through their intra-brand structures, vertical distribution models and regionally among multiple small business brands – or they can also take advantage of AHPs through the IFA. The end result will be that millions of American franchisees’ employees, including my own, will gain access to quality health care coverage.

So, let me explore the problems franchisers are facing, the specifics of my position in more depth, and the support this program has with franchisors and franchisees and their employees in your communities across the country.

The Problem

As many of you know, while employer-sponsored coverage remains the most common source of healthcare coverage in the United States, a smaller proportion of people are covered by employers than a decade ago. There’s also a bigger gap today between the health insurance large firms can access and afford for their employees and what small firms can provide. That gap means that that workers at small firms are more often responsible for paying both a larger share of family premiums, as well as higher cost sharing than workers in large firms. In addition, small group market rules under the Affordable Care Act (the “ACA”) make it more difficult for small businesses to provide affordable health insurance without the purchasing power of a large group. That’s mainly because insurance companies charge higher rates for smaller risk pools.

The franchise community has been hard hit by this reality. In fact, to measure the impact of the expense and administrative challenges faced by franchisee employers in providing health care coverage to their employees, the IFA conducted a member survey of both franchisors and franchisees to measure the challenge on the ground. The results speak for themselves. The survey found that:

- 65% of respondents do not provide any health coverage at all for their employees, only 35% do;
- 92% of respondents that do not provide health coverage refrain from doing so due to the cost burden;
- And, most importantly, 100% of respondents indicated they would provide health coverage to their employees if they could provide coverage through an AHP.

As an expert in the franchising system, I have seen first-hand how small businesses and franchisees are challenged in offering competitive health benefits. The federal Employee Retirement Income Security Act, which currently permits large corporations and labor organizations to “self-insure” and offer insurance with certain exemptions from state law, does not provide small business with the same advantage. The law must be reformed to empower small employers with the ability to obtain and offer quality, competitively priced health insurance.

The Administration has recognized this problem. That’s why they directed the Department of Labor to propose regulations or revise guidance that will expand access to coverage for more Americans by allowing employers to form AHPs.

More specifically, the Secretary of Labor has been directed to consider expanding the conditions that a group of employers must satisfy to act as an “employer.” The IFA believes that the current definition and its interpretations unduly limit groups of small employers from forming AHPs, preventing them from providing quality, affordable health care benefits to employees. Accordingly, we believe that a broad interpretation of the definition should consider the franchise business model as a “commonality of interest”.

We’re confident that we’re on strong ground to make this suggestion. The franchise business model is a federally recognized and defined category of businesses that uniquely contributes to the United States economy. Franchise businesses have a strong and sufficient “commonality of interest,” based on the FTC definition and governing state laws, that will give structure to AHPs limiting participation to a specific group of employer-members. Broadening the commonality of interest rule to include the franchise business model across industry sectors will allow larger risk pools, greater negotiation of rates, and administrative efficiencies. It will also exponentially

increase the affordability and accessibility of health insurance to working Americans who need it most.

I also strongly support the adoption of a safe-harbor provision in the final rule clarifying that the establishment and participation in an AHP does not create or imply joint employer liability. Allowing franchises to participate in an AHP, while not simultaneously including a safe harbor provision, would undermine the policy goals of expanded health care coverage and lowered rates. Without such a safe harbor, the franchise industry would be faced with even greater uncertainty about joint employer liability and would therefore be highly unlikely to offer the benefits of this important health care policy. We are thankful that a bipartisan coalition of members of Congress, including several committee members, have echoed our request.

We also suggest that the final rule clarify that AHPs will be considered the “employer” for purposes of sponsoring a single large group health plan and will not be considered multiple employer welfare arrangements (“MEWAs”) subject to state MEWA requirements. For AHPs to effectively provide affordable, quality health insurance to the association member employees, AHPs that meet the regulations requirement should effectively be treated as a single “association” plan subject to the same State and Federal regulatory structure as other ERISA-covered employee welfare benefit plans.

If AHPs are considered MEWAs and if they are to effectively provide health insurance coverage as intended by the Executive Order and the Proposed Rule, the Department must use its authority to provide a uniform, consistent framework for AHP operation and pre-emption of state MEWA regulations.

We also recognize and support the need for non-discrimination requirements applicable to AHPs to prevent stacking of risk pools which could undermine the affordability and accessibility of health coverage for those who need it most and recognizes the need for the Proposed Rule’s nondiscrimination requirements for AHPs.

Finally, the Proposed Rule would not allow associations to treat different employer-members as different bona fide employment classifications (i.e. no employer-by-employer risk rating). The IFA supports this requirement because it protects against AHPs cherry-picking only healthy employee populations thus defeating the purpose to spread risk among larger diverse populations. We believe that the Proposed Rule strikes the right balance between risk selection issues with the stability of the AHP market.

AHPs will allow small business employers, including franchise owners like my own 604 (soon to be 641) US franchisees, the ability to obtain and offer health insurance benefits through membership in a trade association, including a franchise system. With rising medical costs being

a top concern of both individuals and employers, the impact of this increased availability of quality, affordable health insurance would be significant across all of your districts.

Conclusion

Mr. Chairman, thank you again for allowing me to share FASTSIGNS' and IFA's views on the Association Health Plan proposed rule. Franchise businesses are hiring and expanding at a rapid pace, and in order to continue that growth and ensure that businesses can provide employees with quality and affordable health insurance, we strongly support finalization and implementation of this rule. FASTSIGNS and IFA looks forward to working with the Department of Labor, your Subcommittee, and the Administration on this important new policy.

I would be happy to answer any questions you may have.