

Employers for Flexibility in Health Care Coalition

Preserving Employer-Sponsored Health Coverage under the ACA

January 28, 2014

The Honorable Dave Camp (MI-04)
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Sander Levin (MI-09)
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Camp and Ranking Member Levin,

The Employers for Flexibility in Health Care (E-FLEX) is a coalition of leading trade associations and businesses in the retail, restaurant, hospitality, supermarket, construction, temporary staffing, agriculture, and other service-related industries, as well as employer-sponsored health plans insuring millions of American workers. Members of the E-FLEX Coalition are strong supporters of employer-sponsored coverage and have been working as a Coalition since the enactment of the Affordable Care Act (ACA) to ensure that employer-sponsored coverage – the backbone of the U.S. health care system – remains a competitive option for all full-time, part-time, temporary and seasonal employees.

The E-Flex Coalition represents employers who create millions of jobs each year, employ a significant workforce in the U.S., offer flexible working environments for employees, and are a leading contributor to the nation's economic job recovery. The common thread among Coalition members is that our workforces are of a variable nature, and not traditional 9-5 schedule workforces. Maintaining the ability to offer affordable coverage options to our unique workforces under the new requirements of the law is of special concern to us.

Members of the E-FLEX Coalition have taken a holistic view of the ACA, having recognized that the employer requirements under the law are inextricably linked. Since its formation in 2011, the E-FLEX Coalition has engaged in a constructive dialogue with the U.S. Departments of the Treasury, Labor, and Health and Human Services, the Internal Revenue Service, and the White House about the employer requirements under the ACA, including the determination of full-time employee status. As evidenced by our numerous regulatory comment letters and meetings with the Administration, the Coalition has provided comprehensive policy recommendations and benefits management expertise throughout this process. Additionally, the Coalition has provided Members and staff on both sides of the aisle and both sides of the Capitol with extensive policy briefings on the ACA's employer requirements, and specifically on how the rules impact employers of variable workforces.

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The ACA's definition of full-time employee is of particular importance to the E-FLEX Coalition because of our industries' unique reliance on large numbers of part-time, temporary, and seasonal workers with fluctuating and unpredictable work hours, as well as unpredictable lengths of service. The E-FLEX Coalition successfully advocated for the inclusion of the "look-back/stability period safe harbor method" for determining which employees would be considered full-time for a particular coverage period in the proposed rules for the employer mandate (4980H) that were released on December 28, 2012. This methodology would help employers provide a stable source of coverage for employees and has the potential to reduce churn between employer and Exchange coverage, thereby minimizing disruption of employees' coverage, access to providers and annual benefits.

In addition, for over two years, the E-FLEX Coalition urged the Administration to provide transition relief to allow employers sufficient time to plan, budget and implement the new rules. This advocacy effort culminated in the Treasury Department's announcement on July 2, 2013, that 2014 would be a transition/non-enforcement year under the ACA's employer mandate and reporting requirements. The Administration's willingness to act upon the concerns of employers is the kind of flexibility we need in the implementation of a complex law to ensure that employers can continue to offer affordable coverage to their workers. Many members of the E-FLEX Coalition are using the 2014 transition period as a "practice year" to build their tracking and compliance systems while working to voluntarily comply with the law's employer requirements.

While transition relief for 2014 and flexibility in the proposed rules are greatly appreciated, the E-FLEX Coalition and many in the employer community remain concerned that the ACA employer requirements are fundamentally unworkable and require legislative changes, especially the 30 hours per week definition of full-time employee status. It is critically important to change the law's definition of full-time as 30 hours of service to a definition more in line with employment practices. The law's definition of full-time as 30 hours of service per week does not reflect employers' workforce needs or employees' desire for flexible hours. This change is needed to avoid disruptions in the workforce and maintain flexible work options for employees.

Better aligning the ACA's definition of full-time employee status with current employment practices would help avoid unnecessary disruptions to employees' wages and hours, and would provide critical relief to employers. Increasing the ACA's rigid 30-hour per week definition for full-time status would:

- Make it easier for employers to provide more hours to all employees, thereby increasing their take-home pay;
- Help employers offer more generous health coverage to full-time employees without making employers' share of premiums cost prohibitive;
- Help ensure that lower-income employees have access to more affordable coverage options.

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Using a definition of full-time that better reflects current employment practices would not cause employees to lose coverage. In fact, setting the definition of full-time employee status at a higher level would help eliminate a coverage gap for lower income employees in some states and make it easier for employees to increase their income by requesting work schedules according to their particular needs.

Although sharp differences in opinion about the ACA remain, well-intentioned people on both sides of the debate can agree that maintaining the full-time threshold many employers use today would be better for American workers and businesses than the ACA's lower full-time definition. The E-FLEX Coalition encourages the Committee to consider the following pieces of bipartisan legislation that address the ACA's full-time definition: H.R. 2575 - Save American Workers Act of 2013; H.R. 2988 - Forty Hours Is Full Time Act of 2013; and S. 1188 - Forty Hours Is Full Time Act of 2013.

We thank the Committee for its attention to this urgent issue. Now is the time for Congress to take bipartisan action to preserve jobs and help keep employer coverage. The E-FLEX Coalition looks forward to continuing to work with the Committee and your colleagues in Congress to address the ACA definition of full-time employee.

Sincerely,

Employers for Flexibility in Health Care (E-FLEX) Coalition

For more information, please contact any member of the E-FLEX Coalition's Executive Committee:

Christine Pollack, Retail Industry Leaders Association, christine.pollack@rila.org

Michelle Neblett, National Restaurant Association, mneblett@restaurant.org

Rob Rosado, Food Marketing Institute, rosado@fmi.org

Ed Lenz, American Staffing Association, elenz@americanstaffing.net

Peter Rubin, Aetna, rubinp@aetna.com

Enclosure: E-FLEX Coalition 2014 Membership List