



EMPLOYEE BENEFIT COOPERATIVES: A DIFFERENT KIND OF SMALL BUSINESS AGGREGATION VEHICLE

A critical piece of the health care coverage puzzle is the need to expand coverage among small businesses and their employees. One proposal to achieve this goal provides for the creation of “Employee Benefit Cooperatives.” Employee Benefit Cooperatives would allow small businesses to join together on a cooperative basis to provide health, retirement, and other employee benefits to the small businesses’ employees.

It is important to note that the Employee Benefit Cooperative model is different in several important respects from other small business aggregation models that have been debated in recent years—most notably Association Health Plans (AHPs) and Small Business Health Plans (SBHPs).

- **First and foremost, Employee Benefit Cooperatives are not attempting to avoid state benefit standards such as community rating and guaranteed issue.** That being said, the authority for multi-state aggregation on a common benefit platform is important.
- **Self-insurance is not a necessary component of the proposal.** Employee Benefit Cooperatives can partner with the existing private insurance system provided Employee Benefit Cooperatives have the right of negotiation as a single employer across state lines. By eliminating the myriad number of third party providers inherent in the self-insurance model, the incentives to misuse the cooperative model are eliminated.
- **The structural characteristics of cooperatives (as organized under Internal Revenue Code section 1381) provide additional protections.** As economic “pass through” entities, a direct correlation exists between a cooperative’s economic operations and a shareholder’s welfare, with excess revenue required by law to be allocated to the shareholder’s interest. This intrinsic economic self interest is supported by the democratic obligations of cooperative operation that require the subordination of capital to the voting rights of shareholders: one shareholder, one vote. In short, they are ideal for the intended purpose of watching after the health and welfare interests of an employer and its employees.
- **The structural characteristics of the Employee Benefit Cooperative itself provide additional protections.** In addition to the requirements of Internal Revenue Code section 1381, Employee Benefit Cooperatives would have to meet additional requirements. In particular, Employee Benefit Cooperatives would be required to have at least 21 shareholder-members, all in the same line of business. Employee benefit cooperatives could not deny membership to any qualifying small business so long as the applicant passes credit and criminal background checks. Moreover, the Employee Benefit Cooperative would be required to cover substantially all of the employees of its shareholder-members. Lastly, the Employee Benefit Cooperative is intended to provide a total benefits solution for its shareholder-members, providing retirement and other employee benefits, not only health care.

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