

APRIL 23, 2009

**TESTIMONY OF WILLIAM L. OEMICHEN
ON BEHALF OF THE ALLIANCE FOR EMPLOYEE
BENEFIT COOPERATIVES (AEBC)**

*Before the Committee on Education and Labor
Health, Employment, Labor, and Pensions Subcommittee
United States House of Representatives*

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Good morning, Chairman Andrews, Ranking Member Kline, and Members of the Subcommittee. Thank you for the opportunity to testify in support of federal reforms that would allow small employers, their employees, and their families to gain greater access to affordable, quality health insurance coverage.

My name is Bill Oemichen, and I am the President and CEO of the Cooperative Network, a Minnesota and Wisconsin association of more than 600 cooperative businesses owned by more than 6.3 million residents of both states. I am testifying today on behalf of the Alliance for Employee Benefit Cooperatives, a broad-based coalition of cooperative organizations committed to advancing health care and benefits coverage for American workers and families through the creation of “Employee Benefit Cooperatives”. Alliance members operate in all 50 States, representing over 13,000 member-owners, approximately 40,000 local businesses, and more than 700,000 employees. A current roster of the members of the Alliance is attached as Appendix A.

THE CHALLENGE—ADDRESSING THE HEALTH CARE CRISIS FOR SMALL BUSINESS EMPLOYEES

We all know that a critical piece of the health care puzzle is the need to expand coverage among small businesses and their employees. Generally speaking, small businesses lack economies of both scale and expertise vis-à-vis larger employers in providing health, retirement, and other employee benefits to their workers. In particular, small employers that attempt to provide health insurance for their employees face far greater challenges than larger employers: stricter underwriting, higher prices, fewer choices, lower quality benefits and little or no data upon which to base informed decisions. For this reason, millions of small business employees do not receive health care and benefits coverage, and small business employers that do provide benefits often struggle to maintain these programs.

To expand health care coverage among these small businesses, some means of providing for organized and representative aggregation is essential.

Employee Benefit Cooperatives, a private sector solution designed to meet this essential component of health care reform, would do so in way that will level the playing field for small businesses, while facilitating the objectives of broadening access and improving health care quality through plan design, education, and communication.

THE EMPLOYEE BENEFIT COOPERATIVE APPROACH

This leads to the logical question: what is an Employee Benefit Cooperative?

An Employee Benefit Cooperative would be a cooperative organized under Internal Revenue Code subchapter T section 1381 for the purpose of providing health care and other employee benefits to the employees of its shareholder-members. Under this approach, small employers would join an Employee Benefit Cooperative as one of no fewer than 21 shareholder-members, and the cooperative would then be the aggregating vehicle utilized to purchase and deliver health insurance benefits to the employees of its shareholder-members.

Pursuant to a written agreement, these cooperatives would require substantially all of the employees of any shareholder to participate in its benefit plans, and for the shareholders to be in similar lines of business. These and other preconditions reinforce a commonality of purpose that hinges on more than just the procurement of health benefits coverage, thus removing the risks of adverse underwriting selection.

One of the unique characteristics of the Employee Benefit Cooperative model is that it intends to deliver health care benefits as part of a total integrated package of health, retirement and other employee benefits. Employee Benefit Cooperatives are envisioned as private connectors that provide small employers and their employees with access to competitive health benefits, and that also wrap other available federal benefit programs around that health care core. For example, there are tax favored benefit programs that, when used in conjunction with an insured program of health benefits, can help lower and manage costs, but the use of which is largely out of the reach for most small business because of a lack of administrative capacity and expertise. This includes Cafeteria Plans for pre-tax premium contributions, dependent care and flexible spending accounts; and direct reimbursement programs that can be used in health plan design. Employee Benefit Cooperatives can also foster the expansion of small business retirement planning, since the expertise and capacity to deliver the one will function to deliver the other.

The complexity of the operating mechanics of the employer function is vastly underestimated, and yet expertise in this area is crucial to effective benefits management, communication and negotiation. Accordingly, some form of aggregation that brings benefit management expertise to the small employer market is essential. In this capacity, Employee Benefit Cooperatives can

deliver better overall value, broadening and deepening the larger objectives of health care reform.

Cooperatives have a long and deep history in our nation, having been utilized by Americans for centuries to help themselves and their neighbors improve their lives, principally by providing economies of scale and expertise for their shareholder-members. The defining structural characteristics of cooperatives are these: equity and ownership are limited to its member/owners, they are democratically controlled, and the Internal Revenue Code requires the allocation of earnings to its shareholders in the form of dividends.

Cooperatives span our economy, with deep roots in farming and agriculture, wholesale and retail grocery, credit services (including the farm credit system, banking and credit unions), retailing of all kinds, insurance, electric and telephone utilities, hospitals, housing, and virtually any form of commerce imaginable. Nearly 30,000 U.S. cooperatives operate at 73,000 places of business, accounting for \$3 trillion in assets, \$654 billion in revenue, more than 2 million jobs, \$75 billion in wages and a total of \$133 billion in value-added income.¹

In many instances, the ability to band together to achieve group purchasing power and provide value-added expertise and organization is the driving force behind the creation of a cooperative. However, because our nation's employee benefits laws have been constructed in a way that generally does not recognize the ability to utilize the cooperative form for benefits delivery, this powerful tool has not been available to expand and enhance health care and other employee benefits.

Achieving this capacity requires the recognition of the proposed Employee Benefit Cooperatives as single employers for the purposes of federal employee benefits law. If some form of aggregation is essential to assisting small businesses and our rural communities as part of health care reform, cooperatives – Employee Benefit Cooperatives – are a nearly ideal vehicle.

¹ University of Wisconsin, *Research on the Economic Impact of Cooperatives*, March 2009, Center for Cooperatives.

DISTINGUISHING FROM OTHER SMALL BUSINESS AGGREGATION MODELS

This, of course, is not the first time that a proposal has been offered to allow small business aggregation for health plan purposes. Association Health Plans (AHPs) and Small Business Health Plans (SBHPs) are two small business aggregation proposals that have been hotly debated in recent years. The Employee Benefit Cooperative model is different from these prior models in the following important respects:

- 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 IRC Code § 1381 Subchapter T cooperatives generally, and of the employee benefit cooperative in particular, 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.

SUCCESS IN THE FIELD: THE COOPERATIVE NETWORK EXPERIENCE

My own experience in Minnesota and Wisconsin leading the Cooperative Network proves that the cooperative model can work for benefits delivery. Our cooperative model is currently providing health insurance coverage to farmers and agribusinesses via the Farmers' Health Cooperative of Wisconsin, which contracted with Aetna to begin providing coverage in April of 2007. The cooperative has successfully used the power of group purchasing to negotiate low renewal rate increases of less than 10 percent each year, provide first dollar coverage of preventative care up to the first \$500 and ensure that farm-related accidents are covered by health insurance. This latter benefit was typically excluded from farm health insurance plans, and placed the farmer's livelihood at risk. We were able to accomplish all this without denying insurance to any farmers or agribusiness that meets our membership criteria.

Our Wisconsin success was dependent upon passage of a 2003 State law, Wisconsin Statutes section 185.99, that made clear individuals, small employers, and others could join together as one large group for the purpose of purchasing health insurance. This law passed the Wisconsin Senate and Assembly unanimously.

The *Co-op Care* model is not just for farmers. It is also working for small employers in Brown County Wisconsin, where local employers took the initiative to start a co-op (Healthy Lifestyles Cooperative) for businesses in that area of Wisconsin. This cooperative includes more than 120 small employers and 3,600 individual lives. This cooperative has been able to offer prevention, health, and wellness benefits that were not otherwise made available to the individual employers members prior to participating in the cooperative. Several other regional, small business groups, school districts, and even the Medical Society of Wisconsin (Physician's Health Cooperative), is following suit to develop health care purchasing cooperatives for their members. These cooperatives are focused on improving the health of their member-owners and, as non-profit businesses, exist only to serve their member-owners' healthcare needs. These are only a few of a number of examples.

Before concluding this brief discussion of our Wisconsin healthcare cooperative development efforts, I must recognize the substantial credibility that the \$4.45 million in FY05 and FY06 Congressional appropriations (for start-up administrative costs and initial stop loss) gave our Co-op Care project with insurers. The appropriations effort, led by Senator Herb Kohl and Representative David Obey and supported by other members of the Wisconsin and

Minnesota Congressional delegations, demonstrated the uniqueness of our Co-op Care project. This funding is targeted to support development of healthcare cooperatives for farmers because they usually are viewed as “high risk”, and as a result, have difficulty purchasing insurance in the small group or individual market.

In Minnesota, we are taking a similar approach to help farmers leverage their large group purchasing power to create a *Co-op Care* demonstration project that would give farm families access to a guaranteed issue product with no exclusions for pre-existing health conditions. However, our Minnesota efforts have not yet achieved similar positive results due to a very different Minnesota insurance market and a different State regulatory review process. Cooperative Network members such as Land O' Lakes, CHS member cooperatives, Dairy Farmers of America, and Farm Credit are frustrated we cannot offer similar plans in both States even though they are able to do business in both States.

At the end of the day, however, without the single employer status proposed in the Employee Benefit Cooperative initiative, the ability to fully leverage the good, self interested values of a cooperative's members, its inherent economies of scale, and the management structure that provides for the expertise necessary to navigate employee benefits – with or without health reform – will be limited to the states where we currently operate. Current federal law prohibits us from providing a uniform product, price, education, communication and management strategy, even in these two bordering states, without enabling cooperatives to do what they do so well.

The unique and defining characteristic of the Employee Benefit Cooperative initiative is its intention to provide a total benefits solution. Health insurance, while the primary focus of these discussions, is just one part of the entire health, welfare and pension benefits function that is dependent on employer expertise, and that ought to be discussed and facilitated, where possible, as a whole. The Employee Benefit Cooperative model provides for that possibility.

CONCLUSION

For health care reform (and benefits reform more broadly) to succeed, a field-level means of providing for small business aggregation will be crucial to effecting and maximizing enrollment and participation. We believe strongly that Employee Benefit Cooperatives would provide an ideal means for achieving this purpose. We look forward to working with the Committee on these important issues.