

TESTIMONY OF JEFFREY S. ENDICK, ESQ.  
BEFORE THE CONSUMER OPERATED AND ORIENTED PLAN  
(CO-OP) ADVISORY BOARD, WASHINGTON, D.C.  
MARCH 14, 2011

My name is Jeffrey Endick and I am a principal in the law firm of Slevin & Hart, P.C., which is based in Washington, D.C. Our law firm specializes in the representation of employee benefit plans, including numerous insured and self-insured health and welfare funds around the country. I offer this testimony on behalf of the United Food and Commercial Workers International Union (“UFCW”), a labor organization representing 1.3 million members working in a wide range of industries including retail food, meat packing and poultry, food processing and manufacturing, and retail stores. As the UFCW observed in formal written comments presented to the Advisory Board on February 3, 2011, the UFCW has a long history of providing health coverage through collective bargaining under jointly-administered health and welfare plans as well as single employer sponsored plans. These plans, which cover hundreds of thousands of UFCW members, are administered by boards of trustees that contain an equal number of employer and labor trustees. They are established as tax-exempt vehicles under Section 501(c)(9) of the Internal Revenue Code and are known as Voluntary Employee Beneficiary Associations – VEBAs.

As the American Health Benefit Exchanges are developed as a vehicle to provide minimum essential coverage, the UFCW and other labor organizations will be looking at the Exchanges as possible options to provide health insurance coverage to the uninsured and underinsured. To guarantee that the Exchanges operate in the most competitive and effective

way, it is critical that the Consumer Operated and Oriented Plan Program also be implemented as a strong alternative to for-profit issuers of coverage under the Exchanges.

In order to effectuate the key recommendations of the Advisory Board, we ask that special consideration be given in the awarding of loans and grants to those CO-OP arrangements that contain significant representation from organized labor.

Why should special consideration be given to CO-OPs that are represented by organized labor?

First, the Advisory Board has previously recognized that loan and grant recipients should have policies in which premium rates can generate net income which is set aside to either meet risk capital or lower premiums, improve care, or be returned to the members. The plans operated by organized labor are typically based upon fixed employer contribution rates that are established over the term of a collective bargaining cycle. These rates may have capped increases and therefore the plans must be designed so that the contributions are sufficient to pay benefits and maintain reserves usually of at least six months or more. Thus, organized labor already has the depth of experience in setting capital requirements in a self-insured setting. The terminology may be different at the state insured level but the general concepts are the same – ensure an actuarially sound high quality benefit program that remains solvent over the long term.

Second, prior testimony before the Advisory Board observed that CO-OPs should have a sustained program of oversight, including database monitoring assessments, and tracking of

consumer and provider complaints. Several individuals appearing before this Board suggested consumer representatives should represent the majority of the governing board. Officers of labor organizations who have managed health and welfare plans for decades have precisely the expertise needed to ensure that a CO-OP arrangement is well run and consumer oriented. In their role as trustees of health and welfare plans, labor leaders have developed extensive procedures with network providers and third party administrators to ensure that the needs of participants are satisfied on a regular basis. Quite simply, if members are not satisfied with the coverage they are receiving, local unions are the first to hear about it. If claims are not processed effectively and quickly for a member, the member's labor union is the first to hear about it. Representatives of organized labor are consumer advocates because they are in the business of making certain that workers, in fact, all workers, receive quality health care.

Third, the Advisory Board has observed that CO-OPs should be comprised of value-driven partnerships with providers within the community and CO-OPs should approach health care coverage for members across their life span. Here too, labor organizations and their leadership have a unique perspective that can add considerable value to the running of a cooperative health care arrangement. Labor unions are in the business of fostering relationships that last a lifetime, beyond active employment and into retirement. Therefore, labor organizations have developed health care models that focus on the long-term wellness of a member. By focusing on the health of workers and providing affordable care, more money is available for wages, pensions, and quite frankly, the disposable income that has made the middle class the driver of our economy. Organized labor recognizes how valuable premium dollars are

to working-class Americans. This kind of experience and approach is vital to the success of CO-OPs.

Fourth, labor organizations know the health care market place. They have years of experience negotiating contracts with network providers, vendors, and consultants. With representation by organized labor, CO-OPs can be implemented so that they are competitive at the start of the Exchanges in 2014.

One final comment concerns the important role organized labor can play in the actual growth of a CO-OP arrangement. Previously, testimony was offered that a critical mass of membership is needed in order to make the CO-OP arrangement viable. Local unions represented on a CO-OP Board can play an important role in creating the affinity with a CO-OP arrangement simply by virtue of the local union's relationship with its own membership and with the community within which it operates.

As we move to an environment in 2014 in which every citizen has access to quality affordable health coverage, we ask that, in the development of CO-OPs, the Advisory Board recognize the unique role that organized labor has played in the delivery of high quality affordable health care for many years prior to the mandate of the Affordable Care Act. We urge that the Advisory Board include in its recommendations that loans and grants be awarded to CO-OPs with representation from organized labor with experience in running jointly-administered health plans. We stand ready to answer any questions that you may have

concerning organized labor's contribution to the development of this important nonprofit health care model.

Thank you.

351587v1