

# Waivers show proof of health overhaul flaws, opponents say

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Days before it got a waiver from complying with the health care law, a North Carolina tobacco firm entered into a plea bargain with federal prosecutors on criminal charges that a subsidiary paid millions of dollars in bribes to officials in several foreign countries.

The waiver to Alliance One Tobacco of Morrisville, N.C., was one of 222 the Department of Health and Human Services granted to corporations and labor unions during the past few months.

Under the one-year waiver, Alliance can continue to offer health insurance policies that cap annual benefits at less than \$750,000. The law eventually will bar caps on coverage.

Companies benefiting from waivers include McDonald's, the Pocono Medical Center and various labor unions — including some that actively supported the health care overhaul touted by the Obama administration.

Another beneficiary is the state of Massachusetts, which served as the prototype for the federal Patient Protection and Affordable Care Act.

Overall, the waivers affect 1.5 million people nationwide.

Supporters say the waivers were not unexpected and simply are a temporary measure to allow gradual adjustments to law. Health and Human Services spokesman Keith Maley said the law specified a waiver process.

"There has to be a transition," said Aaron Smith of Young Invincibles, a group that backed the health care overhaul, "but young people need to be aware that the insurance they think have may not be there when they need it the most."

Federal regulations allow waivers if the requirements would cause "a significant decrease" in access to benefits or "significantly increase premiums."

Opponents say the need for waivers, especially from entities that supported the law, show it is fundamentally flawed.

Rep. Michele Bachman, R-Minn., labeled the waivers "an admission of failure."

Among those questioning the low-cost, low-benefit plans is Sen. Jay Rockefeller, D-W.Va., who asked McDonald's for five years of data on its so-called mini-med health plans.

In the letter, Rockefeller wrote that it appeared the basic plan "would not come close to covering the costs of hospital emergency services or the delivery of a child."

Those getting waivers should expect to undergo "close scrutiny," said Rockefeller, who began hearings on the issue.

Alliance One started preparing its waiver request in late September. It got approval Oct. 26.

At the time, the firm entered into a plea agreement with the Justice Department on charges that employees of a subsidiary for years paid millions in bribes to officials in Kyrgyzstan and Thailand. A federal judge approved the plea bargain Oct. 21.

Under the deal, the company agreed to pay fines of \$9.45 million.

In a separate civil case filed by the Securities and Exchange Commission, the company agreed to disgorge \$10 million in profits that resulted from bribes. The company neither admitted nor denied guilt.

"The two issues were not related," said Henry Babb, senior vice president for Alliance, when asked whether the court settlements became an issue in seeking the waiver. The company's waiver applies to 138 employees.

Maley with HHS said background checks are not part of the review for granting waivers and the company would not be required to disclose the criminal case during its application. That could change.

"We are exploring, with the Department of Labor, how this information affects the plans' ability to operate," he said.

Among the unions getting waivers is the United Federation of Teachers, a politically powerful organization that supported the health care overhaul.

In a written response to questions, union President Michael Muldrew said the union requested the waiver as a precaution, in case unanticipated cost increases result from requirements that it provide coverage to an additional 13,000 members.

"The UFT has supported and continues to support federal action to increase health care coverage and manage costs for all Americans," Muldrew said, adding the union never capped benefits. The waiver would apply to 351,000 members.

In Massachusetts, where state law mandates health insurance coverage, a program created by that law won a waiver for 3,544 young adults covered by Health Connector.

Spokesman Dick Powers said the low-cost program caps benefits at \$50,000 to \$100,000. He said officials feared that without a waiver, prices would increase so much coverage would be unaffordable.

"The waiver period will give us time to redesign the plan in a way to mitigate premium increases," Powers said.

One of many health care firms to win waivers was Toledo-based HCR/Manor Care, which operates a chain of nursing homes.

"As one of more than a hundred companies who received a similar waiver, we don't believe there is anything unique about our situation," spokesman Rick Rump said in an e-mail. "It enabled us to continue a health care plan favored by some of our employees that would otherwise have been uneconomical to do so."

The waiver applies to 2,666 employees.

A spokesman for Meijer Inc. of Michigan, operator of convenience and superstores, declined to comment about its waiver for 4,873 employees. The Michigan secretary of State fined the chain \$190,000 for funding a secret 2007 recall campaign against local officials who voted against the firm's development plans.

Officials with Pocono Medical Center in East Stroudsburg said its waiver was sought not for the regular insurance health plan but for an optional prescription drug plan. The waiver applies to 3,298 employees.

Lew Little, CEO of Texas-based Harden Healthcare, said the government cut back reimbursements from Medicare and Medicaid as employee benefit costs increased. The firm, which operates nursing homes in 13 states, offers a low-cost health insurance plan with a \$15,000 annual cap.

Little said most of the 874 employees in the plan are in Texas, but it is offered to all employees.

He said the company applied for the waiver out of concern that employees might be forced to drop coverage. He said higher-cost plans are offered to employees.

The waiver for the McDonald's restaurant chain was requested by its insurance carrier, Illinois-based BCS Insurance. McDonald's offers employees mini-med programs, which are relatively inexpensive but have equally low caps.

For example, a \$13.09-a-week plan caps annual coverage at \$2,000. Higher-cost plans cap annual payments at \$5,000 and \$10,000, said Henry Carpenter, BCS senior vice president. He said the waiver will help the company continue to provide a relatively low-cost insurance product. It will cover about 30,000 McDonald's employees.

BCS obtained a waiver for 85,000 employees of other companies offering its coverage, but Carpenter said company policy bars him from disclosing names.

McDonald's executive Rich Floersch defended the insurance plans at a recent congressional hearing. He said the company is "proud of the benefits we provide our employees."