



July 18, 2017

Hon. Aaron Michlewitz, House Chair  
Joint Committee on Financial Services  
State House, Room 254  
Boston, MA 02113

Hon. James B. Eldridge, Senate Chair  
Joint Committee on Financial Services  
State House, Room 320  
Boston, MA 02113

**re: July 18 Hearing on Mandated Benefit Bills**

Dear Chairman Michlewitz and Chairman Eldridge:

On behalf of a broad group of organizations representing employers and health plans that are committed to ensuring access to quality and affordable health care in the Commonwealth, we are writing to express our opposition to mandated benefit bills that the Committee will hear today as we are concerned that these bills will increase health care costs for employers, particularly small businesses.

**Since passage of the state's Health Care Reform Law in 2006, 17 new mandated benefits have been passed in Massachusetts.** In its December 2016 review of existing mandated benefits, the Center for Health Information and Analysis estimated that existing mandated benefits account for \$2.1 billion in medical expenses, with the additional cost of mandated benefits accounting for as much as 6.45 percent of premiums or \$28.34 per member per month. The Center's analysis did not include the costs associated with state-required benefits enacted more recently, including the expanded substance abuse treatment, coverage for long-term antibiotic therapy for Lyme Disease, services related to HIV-Associated Lipodystrophy Treatment or early refills of prescription eye drops. Requiring coverage of additional mandated benefits increases the cost of coverage, essentially creating a hidden tax on employers, borne mostly by small and medium-sized businesses.

**Mandated benefit bills pertain only to fully-insured policies, which are purchased either by individuals who purchase coverage on their own or receive it through a small or medium-sized business.** Large companies typically "self-insure," providing employee health benefits by directly paying health care claims to providers. They are governed by the Federal Employee Retirement Income Security Act (ERISA) and are not subject to state mandated benefits. Included in ERISA is a provision preventing states from deeming employee health benefit plans to be in the business of insurance for the purpose of state oversight, which preempts states from regulating these plans.

One reason that large employers typically self-insure is to avoid covering certain mandated benefits. This exemption offers self-insured employers greater control over the particular benefits they cover for their employees. According to the Division of Insurance's annual summary of membership in employment sponsored self-funded health benefit plans, seven state mandated benefits were not covered by more than 90 percent of self-funded plans in 2015.<sup>i</sup> Further, CHIA's *2016 Annual Report on the Massachusetts Health Care Market* found that nearly 60 percent of commercially insured individuals were enrolled in a self-insured plan in 2015,<sup>ii</sup> a significant increase from 49 percent in 2011. As more employers self-insure, state laws

mandating specific types of benefits and services affect an increasingly smaller portion of the privately insured marketplace.

Keeping health care affordable is *the* number one challenge facing the health care system. Employers and consumers are struggling with the rising cost of health care and adopting new mandated benefits will exacerbate the challenge Massachusetts businesses face in finding affordable options and runs counter to efforts to address underlying health care costs. For all of these reasons, we would urge the Committee not to pass any mandated benefit bills this session.

Sincerely,



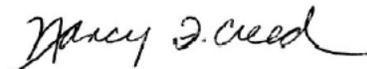
Jon B. Hurst  
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Christopher Carozzi  
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Jeff Rich  
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Health Services Administrators



Chris Powers  
President & CEO  
Massachusetts Association of Health Underwriters



Lora M. Pellegrini  
President & CEO  
Massachusetts Association of Health Plans

cc: Members of the Joint Committee on Financial Services

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<sup>i</sup> Massachusetts Division of Insurance, *Summary of 2015 Membership in Employer-Sponsored Self-Funded Health Benefit Plans*, 2016. <http://www.mass.gov/ocabr/docs/doi/companies/tpa-summary-2015.pdf>

<sup>ii</sup> Center for Health Information and Analysis, *Annual Report: Performance of the Massachusetts Health Care System*, 2016. <http://www.chiamass.gov/annual-report/>