



June 6, 2023

The Honorable Jason Smith
Chairman
House Committee on Ways and Means
1139 Longworth House Office Building
Washington, DC 20515

The Honorable Richard Neal
Ranking Member
House Committee on Ways and Means
1139 Longworth House Office Building
Washington, DC 20515

Dear Chairman Smith and Ranking Member Neal:

We write as you prepare to mark up several bills tomorrow, most notably H.R. 1843, the *Telehealth Expansion Act of 2023*, and H.R. 3801, the *Employer Reporting Improvement Act*. The Partnership for Employer-Sponsored Coverage (P4ESC) endorses these bills and urges their prompt approval. We also support several other bills at tomorrow's markup as noted below.

P4ESC is a nonpartisan advocacy alliance of employment-based organizations and trade associations representing businesses of all sizes and sectors, and the millions of Americans and their families who rely on employer-sponsored coverage every day. Employer-sponsored health insurance is the single largest source of coverage in our nation.

We strongly support H.R. 1843, the *Telehealth Expansion Act*, bipartisan legislation introduced by Reps. Michelle Steel (R-CA-45) and Susie Lee (D-NV-3) among others. H.R. 1843 would allow employers to offer coverage for telehealth services on a pre-deductible basis for the more than 32 million Americans with a Health Savings Account (HSA). We note that Congress provided a two-year extension of the telehealth flexibilities during the COVID-19 pandemic through the *Cares Act*. This welcome extension runs through December 2024. H.R. 1843 would make it permanent.

Telehealth services proved both popular and effective during the pandemic. The now extended *Cares Act* allowed 32 million Americans in the employer-provided insurance market with high deductible health plans coupled with Health Savings Accounts (HDHP-HSAs) to receive telehealth benefits from their employer or health plan on a pre-deductible basis, according to the Alliance for Connected Care. This policy helped ensure that families could access vital telehealth services – including virtual primary care and behavioral health services – prior to having to meet their deductible. According to a survey by the Employee Benefit Research Institute (EBRI), about 96% of employers adopted pre-deductible coverage for telehealth services as a result of this provision. An employee should not need to satisfy his or her deductible in order to make a telehealth visit.

P4ESC strongly supports H.R. 3801, the *Employer Reporting Improvement Act*. This bipartisan bill, introduced by Reps. Adrian Smith (R-NE-3) and Mike Thompson (D-CA-4), addresses several longstanding concerns P4ESC and other employers have had with *Affordable Care Act* (ACA) reporting. For example, the bill provides for flexibility in identifying dependent taxpayer identification numbers (TIN) where that information is not available by substituting the full name and date of birth. It also provides for electronic delivery of statements relating to health insurance coverage where the individual consents to electronic delivery. It provides additional time (90 days) for employers to respond to a preliminary penalty assessment under the ACA. It also provides for a six-year statute of limitations on penalty assessments which will help ease employer record keeping. These are all very positive and helpful changes. We urge their enactment.

The *Employer Reporting Improvement Act* is a successor to the P4ESC-endorsed bipartisan *Commonsense Reporting Act* (H.R. 1264), also sponsored by Reps. Adrian Smith (R-NE-3) and Mike Thompson (D-CA-4). P4ESC has supported versions of the *Commonsense Reporting Act* since passage of the ACA. In fact, a predecessor of P4ESC worked with the Department of Treasury and the Internal Revenue Service *prior to the ACA's enactment*. Since these discussions began more than thirteen years ago, Treasury/IRS has never indicated that they would be unable to support prospective reporting. Rather, their complaint was that they lacked statutory authority to make these changes. Now – on the eve of legislative action – they have indicated that this is beyond their abilities.

Prospective reporting was the very essence of the *Commonsense Reporting Act*. This was designed to simplify reporting and to get real time information to the Exchanges so that employees would not draw down credits they were not eligible for. It would also provide the IRS with additional means to verify tax credit and subsidy eligibility. The opportunity both to provide required information prospectively to the IRS as well as avoid surprise financial penalties would enable employers to more effectively administer benefits, manage healthcare costs, and deliver comprehensive benefits solutions to their employees. We strongly support the Chairman's bill (H.R. 3801) but regret the loss of the prospective reporting provisions in H.R. 1264.

P4ESC strongly supports H.R. 3800, the *Chronic Disease Flexible Coverage Act*, sponsored by Rep. Brad Wenstrup (R-OH-2). This bill rightly recognizes the importance of providing ready treatment of chronic health conditions by including such treatment in the definition of preventative care. More affordable chronic care management now before the deductible can help forestall more dangerous and catastrophically expensive conditions later as the chronic condition worsens.

P4ESC strongly supports H.R. 3797, the *Paperwork Burden Reduction Act*, also introduced by Chairman Smith. This bill provides for alternative methods of reporting coverage under Sections 6055(c) and 6056(c) of the Internal Revenue Code. These ACA reports to covered individuals

relating to employer-provided coverage for purposes of the repealed individual mandate are otherwise required to be mailed to employees and dependents. The Chairman's bill would make these reports readily available on demand to employees and dependents, saving time, the expense of mailing and the waste of paper.

Finally, P4ESC also supports H.R. 3799, the *Custom Health Option and Individual Care Expense Arrangement Act*, introduced by Rep. Kevin Hern (R-OK-1). H.R. 3799 facilitates the provision of Health Reimbursement Arrangements (HRAs) to fund the purchase of individual coverage.

We wish the members of this Committee well as you prepare to mark up these bills and others on Wednesday, June 7. We are always glad to work with all members on issues concerning employer-sponsored health benefits. Please contact P4ESC's Executive Director Neil Trautwein at neil@trautweinstrategies.com for a meeting with P4ESC members.

Sincerely,

Partnership for Employer-Sponsored Coverage

cc: Members, House Committee on Ways and Means