PARTNERSHIP FOR EMPLOYER-SPONSORED COVERAGE

Statement for
U.S. Senate Finance Committee
Hearing on
"COVID-19 Health Care Flexibilities: Perspectives, Experiences, and Lessons Learned"
May 19, 2021

The Partnership for Employer-Sponsored Coverage (P4ESC) appreciates the Senate Finance Committee holding this hearing to discuss options for continuing health care delivery and policy flexibilities implored during the COVID-19 pandemic. P4ESC believes that the time is ripe to modernize laws to increase access to telehealth services as patients, health providers, and coverage plan sponsors adapted to remote working and social distancing measures by utilizing this care delivery method and benefit offered by many employers.

As an advocacy alliance of employment-based organizations and trade associations representing businesses of all sizes and millions of Americans who rely on employer-sponsored health coverage every day, P4ESC is working to ensure that employer-sponsored coverage is strengthened and remains a viable, affordable option for decades to come.

P4ESC appreciates the COVID-related policies adopted over the last year to help employees and businesses, including expanding telemedicine availability to employees. Congress should build on this policy to provide employers with the ability to enhance employee coverage permanently. P4ESC is eager to work on bipartisan legislation to expand employee access to telemedicine, including enabling employers to offer a telehealth service plan to all employees regardless of their enrollment in the employer's medical coverage.

P4ESC supports: 1) treating telehealth services as an excepted benefit which would enable employers to offer this type of coverage to part-time and variable workforces, and other employees not enrolled in the employers' medical plan; 2) reforming licensure requirements to enable services to be offered across state lines; 3) establishing a national set of standards for telemedicine services to address state-based requirements that have not kept pace with technology, practice site and remote working advances, including eliminating originating site and prior provider relationship requirements; and 4) clarifying that CARES Act telemedicine provisions are effective for plan years on or after January 1, 2019 (employer plan years vary between non-calendar and calendar year basis).

According to the Society for Human Resource Management's (SHRM) *Navigating COVID-19: Impact of the Pandemic on Mental Health*[1], "the COVID-19 pandemic has put unprecedented strain on workers' mental health… the research finds that a majority of employees are experiencing symptoms of depression, but very few are receiving care." Findings include:

- Two out of three employees report experiencing symptoms of depression sometimes amid widespread lockdowns
- More than two in five employees feel burned out, drained, or exhausted by work

[1] https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/documents/shrm%20cv19%20mental%20health%20research%20presentation%20v1.pdf

- 37 percent of employees have not done anything to cope with depression-related symptoms and only 7 percent have reached out to a mental health professional

The pandemic has offered employees the ability to receive mental and behavioral health services via telemedicine, and we strongly support making this access permanent. As noted in testimony before the House Education and Labor Committee hearing[2] on April 15, 2021, James Gelfand of the ERISA Industry Committee (ERIC) stated "[w]hen COVID-19 caused many employers to shift to remote work or reduced employee presence onsite, many worksite clinics went virtual, offering mental and behavioral health via telehealth. Some clinics expanded eligibility to other employees in the same state, who may not be based at the same site. This helped create continuity for employees undergoing care, and a new access point for many others."

Further, in an op-ed published in *THE HILL*[3] on May 28, 2020, SHRM's Emily M. Dickens, Chief of Staff, Head of Government Affairs & Corporate Secretary, wrote "[g]reater access to telemedicine, including telepsychiatry, will provide the resources for employees to navigate all health care options and privately seek the help that they need. The convenience of this offering will benefit employers and their employees because such services can be received at home and after work hours during a time when personal and professional schedules are anything but definite for so many workers."

In the employer benefits space, telehealth services come in different forms, such as: the ability for employees to be treated by a health provider or practice, with whom they already have a relationship, in a telemedicine setting instead of through a traditional in-office visit; and access to a telehealth service vendor which is included in a benefits package offering, similar to a dental or vision plan, that is separate from the medical plan but provides the ability to be connected to a physician or health professional for a consultation.

In the later example, the separate telehealth vendor program can legally be provided to full-time employees enrolled in the employer medical plan but not to other groups of the workforce. Part-time and seasonal employees, and full-time employees who declined the employer medical plan cannot access the telehealth vendor program because this type of stand-alone benefit would violate the coverage rules under the Affordable Care Act's (ACA) employer mandate. P4ESC supports legislation to enable employers to offer these excepted benefit telehealth service plans to all employees, regardless of their eligibility for or enrollment in an employer's medical plan. Offering this type of telehealth service to employees is not at all meant to circumvent an employer's responsibility to offer a medical plan to full-time employees under the ACA's employer mandate.

Additionally, as the Committee considers ways to improve access to telehealth services, P4ESC urges you to also consider network access and availability of behavioral and mental health providers. Employers and employees face challenges in finding available and affordable behavioral and mental health care providers. Some behavioral and mental health providers – particularly those in rural areas – decline to participate in health insurance networks. In the case of most self-insured plans under the Employee Retirement Income Security Act of 1974 (ERISA), employers rent insurance carriers' provider networks. The decision to join a network lies with the provider, subject to network standards.

[2] 04-15-21 ERIC Testimony - E&L Mental Health Hearing [Final].pdf
[3] https://thehill.com/opinion/healthcare/500017-assist-mental-health-of-workers-by-increasing-access-to-telemedicine

Because so many behavioral and mental health providers choose not to go in-network, employees can often face large out-of-network bills for care sought. It is important to stress that efforts to evaluate the availability of behavioral and mental health providers in health insurance networks must also consider whether these providers make themselves available and affordable to employees. Coverage requirements and civil monetary penalties on employers and insurance carriers are counterproductive, particularly regarding access and affordability, unless there is a countervailing requirement enforced by equal penalties for providers to participate in one or more networks.

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The Partnership for Employer-Sponsored Coverage welcomes the opportunity to provide input and speak in further detail. Benefits offerings and coverage plans in the employer-sponsored system are as diverse as employers themselves. There is no one-size-fits-all employer plan, and the functionality of a business is centered around a productive, thriving, and healthy workforce. As a coalition representing businesses of all sizes, we have the unique ability to provide operational input across the full spectrum of the employer system – from the smallest family business to the largest corporation.

American Health Policy Institute
American Hotel & Lodging Association
American Rental Association
Associated Builders and Contractors, Inc.
Associated General Contractors of America
Auto Care Association
Business Group on Health
The Council of Insurance Agents & Brokers
The ERISA Industry Committee (ERIC)
FMI – The Food Industry Association
HR Policy Association
National Association of Health Underwriters
National Association of Wholesaler-Distributors
NFIB – National Federation of Independent Business
National Restaurant Association
National Retail Federation
Retail Industry Leaders Association
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