



PARTNERSHIP FOR EMPLOYER-SPONSORED COVERAGE

February 11, 2021

United States Congress
The Capitol
Washington, D.C.

Dear Senators and Representatives:

As the 117th Congress commences, the Partnership for Employer-Sponsored Coverage (P4ESC) would like to commend you on your service to our nation, especially during the COVID-19 pandemic. Continuing to address our nation's on-going public health and economic crises is a very tall undertaking. P4ESC is grateful for the relief efforts enacted by the previous congress and appreciates actions to provide additional public health and economic assistance to Americans and businesses around the country.

P4ESC is 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. We are working to ensure that employer-sponsored coverage is strengthened and remains a viable, affordable option for decades to come.

No public health crisis has been more challenging in our nation's history than the current COVID-19 pandemic. P4ESC is extremely grateful for the care our nation's health professionals, doctors, nurses, nursing aides, and first responders have provided to Americans during the pandemic. We are also very thankful for the pharmacists, pharmacy aides, and volunteers staffing vaccination sites throughout the country that stand ready to help vaccinate millions of frontline workers and the general public.

Vaccinating Americans against COVID-19 and getting our economy back on track are goals we share with you. As organizations representing small, medium, and large businesses employing millions of hardworking Americans, we have a vested interest in ensuring that mass vaccination efforts succeed, and our nation's economy moves forward. We welcome any opportunity to help in the public education campaign on vaccinations, including disseminating information to our member businesses and their employees and provide input on policy development and compliance relief measures for employees and employers. Additionally, employers are seeking clarification on their ability to offer employees incentives to vaccinate without running afoul of federal laws.

As Congress continues its work on addressing pandemic-related issues and begins its legislative and oversight activities on larger-scope policies for the new session, P4ESC would like to highlight the following principles and priorities that are important for ensuring employment-based health coverage thrives.

- Preserve and strengthen employer-sponsored health coverage
- Promote innovations and diversity of plan designs and offerings for employees
- Uphold the current tax-treatment of employer-sponsored coverage
- Address health system costs and challenges
- Provide employers with compliance relief from burdensome regulations

Preserve and strengthen employer-sponsored health coverage

Employer-sponsored coverage has been the backbone of our nation's health system for nearly eight decades. Businesses of all sizes contribute vast resources to employees and their families through the employer-sponsored system and have a vested interest in health care quality, value, and system viability. Employers have been on the



leading edge of health delivery innovation and modeling for decades. Benefits offerings and coverage plans in the employer-sponsored system are as diverse as employers and employees themselves.

With self-insured coverage under the Employee Retirement Income Security Act (ERISA), employers tailor coverage to meet their workforce's specific needs across state lines, pay all health claims and bear the financial risk, and utilize a third-party administrator (insurance carrier) for daily plan management. Through the fully insured state-regulated insurance market, employers purchase a prescribed benefit insurance product sold in a state from an insurance carrier and do not bear the full financial risk of claims.

COVID-19 has brought an unprecedented amount of uncertainty for employees and businesses. The employer-sponsored system has been a steadfast safety net for the millions who have suffered from COVID and the millions more receiving care for a host of health and wellness issues. As our nation continues to weather the current public health crisis, P4ESC urges Congress to preserve and strengthen employment-based health coverage and work with employers to address the long-term health and economic issues.

Promote innovations and diversity of plan designs and offerings for employees

Employers have led the way in benefits design and innovation for decades and will continue to do so for decades to come. There is no one-size-fits-all employer health plan, nor should the federal government enact or implement laws to undercut ERISA and stifle an employer's ability to develop benefits offerings that meet the specific workforce's needs. All levels of government should work constructively with private sector employers to ensure that employers have the tools and flexibility to foster benefits design and innovations that provide employees with benefits that are crucial to the wellbeing of themselves and their families.

P4ESC appreciates the COVID-related policies adopted over the last year to help employees and employers including federally funding the COVID vaccine for all Americans, expanding telemedicine availability to employees, enabling employees to rollover unused flexible spending account funds, allowing for first-dollar coverage of COVID testing and treatment under a high deductible health plan, and treating health expenses as an employment expenses under the employee retention tax credit.

Congress should build on these policies 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. The pandemic has offered employees the ability to receive mental and behavioral health services via telemedicine, and we strongly support making this access permanent. P4ESC also urges action on bipartisan legislation to enable Americans with health savings accounts (HSAs) to better manage their health care and improve health outcomes, while lowering their out-of-pocket costs and increasing access to innovative care options. Consumer-directed health products (CDHPs), such as HRAs, provide employers of all sizes with flexible coverage options for their employees and families. HSAs were created nearly 20 years ago but regulations about how individuals can use their HSA dollars have not kept pace in the changing benefits landscape.

Uphold the current tax treatment of employer-sponsored coverage

Our nation's employment-based health coverage system sprung out of a cap on wages initiated during World War II to stifle inflation. Employers began offering benefits, such as health coverage, to workers to offset the limit on wages. For decades, employees and employers have benefited from preferences in the federal tax code that: exclude the value of employment-based health coverage from an individual's income; allow for the pre-tax payment of an individual's premiums of employment-based health coverage; and enable employers to deduct the cost of health coverage expenses.



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Eliminating or capping the tax exclusion of employer-sponsored coverage for individuals has been seen as a way to raise federal revenue and/or offset the cost of other federal reforms or programs. Some also see capping the exclusion as a way to address the demand side of health care spending. P4ESC opposes capping or modifying the individual tax exclusion of employment-based coverage, as it is a direct tax increase on working Americans and their families. A cap on the exclusion does not address rising health system costs or utilization and will stifle private-sector innovation and delivery designs. To tamper with the current tax-treatment of employer-sponsored coverage amid the COVID-induced economic crisis would be especially devastating to struggling businesses and American workers.

Address health system costs and challenges

While employer-sponsored coverage has served as a vital safety net during the pandemic, the system has been tested and will continue to be so during the duration of the crisis. This does not mean that employment-based coverage should be eliminated or undercut in favor of a government-run option. The fiscal viability and rising costs of our nation's health system have been debated on Capitol Hill for decades, long before COVID-19. The pandemic has heightened the awareness of system readiness, and cost issues for businesses and employees alike.

P4ESC is concerned about the long-term effects of COVID-19 on our employees' health and fiscal constraints on both employees and employers. For those who have been diagnosed with COVID, little is known about the long-term health effects. Additionally, many Americans have forgone routine medical care and surgeries during the pandemic. Initial feedback we have received from businesses regarding future coverage issues, complexities, and costs include areas such as: actuarial considerations of COVID-related testing and treatments (as well as complexities related to mental health parity rules); self-funded and fully insured premium increases; increased cost of stop-loss insurance for self-funded employers; and risk pool changes. With the employer-sponsored coverage system's foundation being rooted in workforce policy and business operations, the COVID pandemic will leave an indelible mark on benefits planning and operations for many years.

Further, P4ESC and businesses of all sizes have been concerned for decades about health system consolidation and limited access to certain provider groups. Specifically, employers and employees face challenges in finding available and affordable mental and behavioral health care. Some mental and behavioral health providers – particularly those in rural areas – decline to participate in health insurance networks. In the case of most ERISA self-insured plans, employers rent insurance carriers' provider networks. The decision to join a network lies with the provider.

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

Provide employers with compliance relief from burdensome regulations

The ability to offer coverage to employees and the capacity to operate a business for its core purpose are not mutually exclusive functions. An employer offer of coverage is not merely a transaction in which an employee fills out paperwork, enrolls in coverage, and receives an insurance card – it is a multifaceted fiscal and operational commitment at the core of any business. As employers are making the decisions to offer coverage and determine



which type of coverage to offer their employees, a critical aspect of this deliberation is the administrative compliance costs and complexities associated with coverage.

The compliance requirements under the Affordable Care Act (ACA) have always been complex and administratively burdensome on employers. With the current pandemic, the compliance complexities and tracking requirements are further exacerbated because employers are managing closures, decreased demand, work from home policies, furloughs, reduced hours, temporary layoffs and more. P4ESC is seeking immediate safe harbor COVID-related relief for businesses under the IRS employer information reporting requirements, affordability test and hours counting rule.

For the long-term, P4ESC continues to advocate for bipartisan legislation to provide a more streamlined approach to the IRS employer information reporting requirements, and employer mandate definitions of full-time and seasonal employment and the large business threshold. The ACA tax-policy rules fundamentally altered business operations and continue to be costly and burdensome. Reforming the reporting requirements would provide a more consumer-friendly process for individuals, and a less burdensome and costly compliance process for employers, the federally facilitated and state-based Exchange systems, and the IRS alike. Altering the definitions under the employer mandate would enable employees to pick up extra hours, provide consistent federal definitions across different laws, and enable businesses to hire more employees and grow their operations.

Conclusion:

The current war against COVID-19 is an all-hand-on-deck crisis and commercial market-based, employment-based health coverage plays a crucial role in care delivery. As a coalition representing businesses of all sizes, the Partnership for Employer-Sponsored Coverage has the unique ability to provide operational input across the full spectrum of the employer system – from the smallest family-owned business to the largest corporation. Employers have a great stake in developing and implementing health care policies, and we look forward to working with you and your colleagues in a bipartisan manner throughout 117th Congress.

Sincerely,

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
National Restaurant Association
National Retail Federation
Retail Industry Leaders Association
Society for Human Resource Management