



AMERICAN BENEFITS
COUNCIL

July 8, 2009

The Honorable Edward Kennedy
Chairman
Senate HELP Committee
Washington, DC 20510

The Honorable Christopher Dodd
Acting Chairman
Senate HELP Committee
Washington, DC 20510

The Honorable Mike Enzi
Ranking Member
Senate HELP Committee
Washington, DC 20510

Dear Chairman Kennedy, Acting Chairman Dodd and Senator Enzi:

I am writing on behalf of the American Benefits Council (the "Council") concerning the revisions to Title I of the Affordable Health Choices Act affecting employer-sponsored health coverage. The Council is a trade association representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans covering more than 100 million Americans.

We remain committed to health care reform that improves health care quality, lowers costs and provides coverage to all Americans. As we mentioned in our June 10 letter to you regarding the Committee's earlier draft of health care reform legislation, we firmly believe that the best reform options are those that preserve and strengthen the voluntary role that employers play as the source of health coverage for most Americans. By keeping employers engaged as sponsors of health coverage, we also keep the innovation and expertise employers bring to the collective effort to achieve broad-based, practical health system reform.

The legislation being considered by the Committee includes numerous positive changes to improve health care quality and patient safety, advance much needed research on health care outcomes and the comparative effectiveness of differing health services and procedures, promote wellness and disease prevention and strengthen the health care workforce. We commend and support the Committee's efforts in these vitally important areas to improve health care delivery and move toward a more accountable, performance driven health care system.

However, as we review the revisions to Title I of the health care reform legislation which are about to be considered by your Committee, we believe that several changes are needed in the draft legislation so that it does not inadvertently discourage employers from providing health coverage to employees or add to the cost of coverage for employers who sponsor and pay for these valuable benefits today.

Minimum Benefits Standard

We believe that a federal minimum benefit standard is needed only for the purpose of determining whether individuals have enrolled in qualified health coverage and have met their individual coverage obligation. Once this standard is defined, employers will have strong incentives to ensure that their plans meet or exceed the minimum coverage standard applied to individuals; since to not do so would leave employees without adequate levels of coverage and subject to year-end penalties. Individuals who enroll in these employer plans will therefore satisfy their individual coverage obligation and those without employer coverage will be able to enroll in a wide range of health plan choices in the reformed insurance marketplace.

Further, we strongly recommend that Congress follow the lead taken by Massachusetts when it adopted health reform legislation, by including a "safe harbor" for qualified high deductible health plan (HDHP) coverage. By doing so, individuals who enroll in a high deductible plan that meets existing federal standards would be assured of fulfilling their individual coverage obligation. An explicit safe harbor for federally qualified high deductible health plans would ensure that this affordable health plan choice remains available to all Americans.

Similarly, we are concerned that the standards for the "basic tier" of qualifying coverage would require coverage for 76 percent of "the total allowed costs of the benefits provided by the plan". This standard is likely to result in increasing the cost for a "basic" health benefit plan in both the individual and group markets in order to meet this minimum threshold for the value of qualified coverage. It is particularly important to maintain the option of providing an affordable, basic level of coverage for many smaller and mid-size companies as well as in industries of any size where many individuals now obtain entry level employment.

Pay-or-Play Requirements

We continue to believe that one important reason that a “pay-or-play” approach would be an inappropriate coverage solution is that the myriad requirements that would inevitably be imposed on those who might prefer to sponsor health coverage would ultimately, if unintentionally, result in a net reduction in employer-sponsored coverage by leading many companies over time to simply “pay” rather than “play”. This would lower the level of active employer engagement and their important role as innovative and demanding purchasers of health care services.

Another significant concern with “pay-or-play” mandates is their application to part-time workers. Under current law, employers are permitted to define the minimum number of hours that an individual must work to be eligible for health or other employment-related benefits. However, the Committee’s latest draft proposal would require employers to either extend health benefits to employees regardless of the numbers of hours they work or pay a penalty to the government. “Pay-or-play” provisions that apply to part-time workers will increase employer expenses or reduce employment or wages for part-time workers. In addition, employers who do not offer coverage to part-time employees would be subject to penalties even though many of these employees may obtain coverage under a spouse’s health plan, as is frequently the case for many part-time employees today.

The revised draft proposal appears to subject employers to “pay-or-play” penalties for prescribing limited waiting periods before new employees may be eligible for benefits. Limited waiting periods are quite appropriately permitted under current law and are particularly important in high-turnover industries where adding an employee to an employer’s plan for an extremely short period of time would be particularly burdensome. This was an important point that was recognized on a bipartisan basis by Congress with the enactment of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

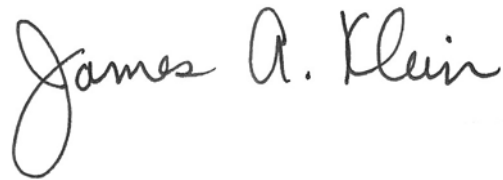
Public Health Insurance Plan Option

There is now widespread agreement that a reformed and well regulated private insurance market is an essential component of health care reform. In our view, achieving this goal will be challenging enough without attempting to introduce public health insurance plan options at the same time. More importantly, not only would the start-up of any public plan option divert resources and attention from the formidable new implementation challenges that will accompany the enactment of health reform legislation, it also risks destabilizing the insurance market at the time when it will be expected to undergo significant changes and meet demanding new standards.

We are confident that responsible federal insurance reform standards will lead to wide availability of private health plan options in all parts of the country, as it did for plans providing the Medicare prescription drug benefit. In short, we believe that vibrant competition among private health plan options in the reformed market should be given every opportunity to succeed.

In conclusion, as you move forward in considering vitally important health reform legislation, we urge that you keep these core issues in mind. The resolution of these issues will determine the future of employer-sponsored health coverage which now serves 170 million Americans. We look forward to working with you to achieve health care reform this year.

Sincerely,

A handwritten signature in black ink that reads "James A. Klein". The signature is written in a cursive style with a large, looping initial "J".

James A. Klein
President