



AMERICAN BENEFITS COUNCIL

October 14, 2008

Mr. John Kingsdale
Executive Director
Commonwealth Health Insurance Connector Authority
100 City Hall Plaza
Boston, MA 02108

Dear Mr. Kingsdale:

I am writing to share the views of the American Benefits Council regarding the impact of proposed revisions to the Minimum Creditable Coverage (MCC) regulations on employer-sponsored health benefits coverage; particularly coverage sponsored by national or multi-state employers that rely upon a uniform federal regulatory framework to provide a consistent set of benefits to their employees. We are concerned that the lack of employer flexibility in the revised regulations as proposed could ultimately and inadvertently limit, rather than expand, Massachusetts residents' access to employer-sponsored health coverage.

The American Benefits Council is a broad-based, nonprofit trade association committed to protecting and fostering the growth of employer-sponsored benefit plans. The Council's more than 270 members are primarily major U.S. employers that provide benefits to active and retired workers, and conduct business in most, if not all, states. The Council's membership also includes organizations that provide services to employers of all sizes regarding their employee benefit programs. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans covering over 100 million Americans.

While our comments today focus primarily on the proposed changes to the MCC regulations, our members are affected by many aspects of the Commonwealth's health reform initiatives, including requirements related to minimum contributions to coverage, reporting, recordkeeping, disclosure and other requirements affecting plan practices.

We also recognize that a central issue for many employers, whether the Commonwealth's requirements are consistent with the Employee Retirement Income Security Act of 1974 (ERISA), remains unresolved and may ultimately need to be addressed by the courts.

While this broader question has yet to be answered, the proposed rules that you will consider on October 17 are likely to pose significant practical challenges for many employers. We therefore recommend that the final regulations provide as much flexibility as possible to allow employers to maintain uniform benefits for their entire workforce. We strongly recommend that any revisions to current requirements not become effective prior to January 1, 2010 since multi-state and national employers have already finalized their 2009 health benefits plans. In many cases, these employers have begun their communications and enrollment processes for the 2009 plan year and employees have already made their benefit elections for the upcoming year.

In addition, we recommend that the Connector Board include a safe harbor provision that permits a qualified actuary to certify that a health benefit plan is actuarially equivalent to the coverage of a basic benefit benchmark plan. Such a safe harbor is particularly important for multi-state or national employers so that they can maintain uniform benefit plans for their entire workforce.

Without such a provision, individuals who reside in Massachusetts could be at risk of being determined to have failed the requirement to obtain minimum creditable coverage, even though they would be enrolled in a plan with a value that exceeded the Commonwealth's minimum requirements. Alternatively, employers would be compelled to conform their plans to meet the details of the Commonwealth's MCC requirements in order to maintain consistent benefit plans for all employees in all locations while ensuring that those employees who reside in Massachusetts would be able to enroll in qualified coverage.

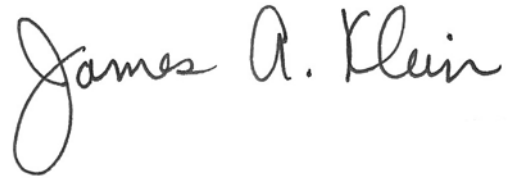
We also recommend that any further implementing guidance related to an actuarial equivalence certification safe harbor procedure be as streamlined as possible. It is important that the actuarial equivalence safe harbor not become a complicated or burdensome process. Assuring the integrity of the certification of a health plan's value should be based on a requirement that the determination be made by a qualified actuary with appropriate professional credentials.

We further understand that the Connector board will consider additional standards for high deductible health plan coverage that would be effective beginning January 1, 2010. We recommend the continuation of the Commonwealth's current policy which is that high deductible health plans that comply with federal statutory and regulatory requirements should be recognized to satisfy the individual coverage requirement. The Commonwealth's health coverage objectives would not be assisted by subjecting individuals enrolled in federally qualified coverage, for purposes of maintaining a

qualified Health Savings Account, to additional requirements in order to be considered to have obtained minimum creditable coverage.

Thank you for your consideration of our views.

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