



May 21, 2021

The Honorable Karen E. Spilka
Senate President
State House, Room 332
Boston, MA 02133

The Honorable Michael J. Rodrigues
Chair, Senate Ways and Means Committee
State House, Room 212
Boston, MA 02133

Dear President Spilka and Chairman Rodrigues:

On behalf of a broad group of employers and health plans that are committed to ensuring access to high quality and affordable health care in the Commonwealth, we applaud your efforts to pass a budget during uncertain economic times that is compassionate, thoughtful, and balanced. We particularly appreciate your efforts as we continue into the second year of the COVID-19 pandemic and our state continues to be in a state of emergency through June 15th.

We are writing today to express our concerns with certain proposed amendments to the Senate FY22 budget that we believe will translate into higher premiums for employers and consumers and impede the Commonwealth's efforts to address rising health care costs. We believe these amendments should not be considered as part of the budget process, but rather, should go through the traditional committee process where they can be more carefully deliberated.

Telehealth Amendments – Amendments 561 and 565 (Oppose)

Telehealth was comprehensively addressed as part of Chapter 260 of the Acts of 2020. During deliberations, lawmakers rejected efforts to mandate that telehealth services be paid at parity with in-person visits, while recognizing exceptions for behavioral health and creating a transition period for chronic conditions and primary care. We believe that most telehealth services should be paid at rates lower than in-person rates because the overhead to deliver telehealth services is far less than what is needed to deliver such service in person. We believe that Chapter 260 struck the right balance to address payment for telehealth services, and that the law should be given an opportunity to be fully implemented as lawmakers intended.

The Division of Insurance held five comprehensive public listening sessions over the last several months on the implementation of telehealth provisions included in Chapter 260. All interested stakeholders, including state agency administrators, health plans, hospitals, providers, and consumer advocates, have provided ongoing feedback to the Division on various topics and associated questions relative to provisions in Chapter 260 that define behavioral health, primary care, and chronic care management, and that permit the rate of payment for telehealth services to vary depending on modality following the public health emergency. Additionally, the Division issued Bulletins 2021-03 and 2021-04 since the passage of Chapter 260 to reiterate the new statutory requirements on both telehealth and COVID coverage.

The following amendments attempt to circumvent the new law and regulatory efforts and, as such, they should be rejected. Specifically, we oppose:

Amendment 565 (Gomez) would amend Chapter 260 to require that the currently mandated reimbursement parity for telehealth services at the in-person rate remain in effect for 180 days after the end of the COVID-19 state of emergency, rather than 90 days beyond termination of the public health emergency as enacted in Chapter 260. The Division of Insurance is working quickly to ensure that consumers will continue to receive robust telehealth services in compliance with the new state law after the conclusion of the public health emergency.

Amendment 561 (Gomez) would expand the definition of chronic disease management for telehealth reimbursement purposes under Chapter 260 of the Acts of 2020, significantly adding to the services that health plans would be required to reimburse at the in-person rate for two years. Chapter 260 requires health plans to reimburse providers of chronic disease management delivered via telehealth at not less than the rate of payment for the same service delivered via in-person methods through January 1, 2023. This amendment would extend mandated reimbursement rates to all care and treatment of COVID-19 and its long-term symptoms delivered via telehealth and establish new obligations beyond Chapter 260.

State-Mandated Benefits – Amendments 443 and 529 (Oppose)

We also respectfully request that the amendments listed below be rejected, as these policy proposals would have an adverse impact on health care premiums for small business and individuals and should not bypass the traditional committee and hearing process. We are committed to working with the legislative sponsors through the committee process during the 2021-2022 session and welcome the opportunity for further conversations.

Amendment 443 (Keenan) would require coverage of a Multiple Sclerosis (MS) drug on which the member has been prescribed and has already been taking and would also require a 30-day transition fill within the first 90 days for pharmacy benefits and a 1-time infusion for medical benefits. Drugs that have not been approved by the plan's Pharmacy and Therapeutics committee, products provided by sample, and products prescribed in a manner inconsistent with the FDA indication for the drug would be excluded from the requirement. We support continuity of care for newly enrolled members who have been stabilized on a drug and agree that they should be able to stay on their drug without having to repeat step therapy or other authorization processes. To that end, we have engaged in discussions with the proponents of the amendment to find a compromise position on the legislation. We have concerns with the language in Amendment 443 regarding the breadth of the language as well as technical concerns. This amendment should be rejected.

Amendment 529 (Finegold) would mandate that health plans reimburse health care providers in the state an additional \$6.57 for each individual patient encounter to cover costs associated with personal protective equipment for the duration of the COVID-19 public health emergency. Health plans reimburse providers for medically necessary care and treatment. Imposing new assessments on health plans for services that are incidental to direct medical treatment will further increase health care costs for employers, exacerbating the challenge they face to make high-quality, affordable coverage available to their employees. Moreover, the public health emergency is winding down, COVID-19 infection rates are minute, and the state vaccination rate is extremely high, minimizing the need for such supplies. This amendment should be rejected.

Provider Price Variation and Hospital Funding – Amendment 528 (Oppose)

The Legislature took an appropriate and targeted approach in Chapter 260 to provide financial assistance to only a subset of hospitals truly in need - disproportionate share hospitals with a high percentage of Medicaid patients. The provisions of the law recognize data collected by the Health Policy Commission,

the Center for Health Information and Analysis, and the Attorney General over the past several years that shows that certain independent community hospitals have a disproportionate share of public pay patients, and that Medicaid and Medicare reimbursements do not cover the cost for this patient care and they report operating losses on these members. Conversely, these same hospitals almost always run a surplus on the small fraction of commercial members they serve.

Additional funding for a subset of community hospitals with a disproportionate share of Medicaid members should be funded with state monies and should not be funded with assessments on health plans or requirements that health plans increase rates to these providers unless there is a corresponding requirement decreasing rates to the highest paid providers to offset the additional spending.

Amendment 528 (Finegold) would establish a rate floor for reimbursements to high Medicaid acute hospitals at 90% of a health plan's statewide average commercial relative price, calculated separately for acute hospital inpatient and outpatient services. Premium rates and provider contracts filed with the Division of Insurance would be presumptively disapproved unless the health plan reimbursements to hospitals reflect increases. This amendment will increase health care costs for members and businesses and should be rejected.

For these reasons, we would urge you to **oppose Amendments 443, 528, 529, 561, and 565.**

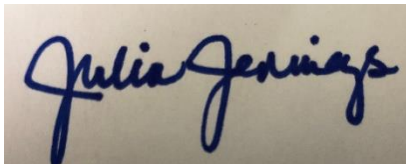
Sincerely,



Lora M. Pellegrini
President and CEO
Massachusetts Association of Health Plans



Chris Carlozzi
Massachusetts State Director
NFIB



Julie Jennings
Executive Director
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Underwriters



Jon B. Hurst
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