



STATEMENT FOR THE RECORD
U.S. HOUSE OF REPRESENTATIVES
EDUCATION AND THE WORKFORCE COMMITTEE
SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR, AND PENSIONS
HEARING ON:
**“REDUCING HEALTH CARE COSTS FOR WORKING AMERICANS AND THEIR
FAMILIES”**

The Partnership for Employer-Sponsored Coverage (P4ESC) commends the Subcommittee on Health, Employment, Labor, and Pensions for holding this hearing on reducing health care costs for working Americans and their families. Helping make coverage more affordable is at the core of P4ESC’s mission.

P4ESC is a nonpartisan advocacy alliance of employment-based organizations and trade associations representing businesses of all sizes and sectors, and the millions of Americans and their families who rely on employer-sponsored coverage every day. Employer-sponsored health coverage is the single largest source of coverage in our nation.

P4ESC is eager to work on bipartisan legislation to permanently expand employee access to telemedicine, including first dollar coverage under Health Savings Accounts (HSAs) and enabling employers to offer a telehealth service plan to all employees regardless of their enrollment in the employer’s medical coverage. Pandemic relief offered employees the ability to receive mental and behavioral health services via telemedicine, and we strongly support making this access permanent.

P4ESC strongly supports greater congressional oversight of the Federal Trade Commission (FTC) review of hospital and physician practice consolidation with emphasis on the growth of private equity acquisition of hospitals and physician practices. P4ESC also supports building on site-neutral rules to deter location-based gaming of coverage (e.g., the *Transparency of Hospital Billing Act*). Greater oversight of the high cost of medical care is long overdue.

Preserve and strengthen employer-sponsored coverage.

Employer-sponsored coverage has been the backbone of our nation’s health system for more than eighty years. Businesses of all sizes contribute vast financial, administrative, and other resources to employees and their families through the employer-sponsored system and have a vested interest in health care quality, affordability, and value. Benefit offerings and coverage

plans in the employer-sponsored system are as diverse as our 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. Many employers operate in multiple states with employee populations in each and self-insured coverage allows a common benefit plan for all employees no matter where they are located. These employers pay all health care claims and bear the financial risk of future claims. Employers often utilize a third-party administrator (TPA) for daily plan management, and in most cases, rent insurance carrier provider networks. Many also purchase stop loss coverage¹ to manage the risk of high-dollar claims. Most importantly, employers that sponsor self-insured health plans have a fiduciary duty under ERISA to manage plan assets prudently and in a manner that solely benefits the interests of plan participants and beneficiaries.

Under fully insured coverage, employers purchase an existing state-designed insurance plan sold and regulated on a state-by-state basis from insurance carriers. These employers do not bear the full financial risk of claims, but still hold a fiduciary interest in the cost and quality of coverage under ERISA.

Whether or not a business self-insures its coverage is largely but not entirely a question of size. In 2021, 78.1 percent of businesses with 1,000 or more employees self-insured at least one plan offering². In contrast, only 17.7 percent of businesses with 25 to 99 employees self-insured their coverage³. More small employers would buy a fully insured plan.

Employer-sponsored coverage holds a distinct advantage over public-sponsored insurance pools. Workplace-based coverage groups together employees without regard to their health status. These pools tend to be more stable over time and more predictable leading to lower premium trends than other pooling arrangements. Younger, healthier employees offset the cost of older or less healthy employees, helping to keep coverage more affordable across the entire workforce. This natural pooling of employees in the private sector is more affordable and effective than government-created public pools in which less healthy individuals have a greater incentive to join the public pool than do healthier ones.

Employer-based coverage has been stressed by cost pressures and crises such as the COVID-19 pandemic, which tested the link between work and health care benefits. However, the number of Americans with employer-provided coverage fell only 1-2 percent despite the unemployment

¹ Stop loss coverage is not a health plan within the meaning of the Affordable Care Act but shields a self-insured employer from the risk of the most expensive claims.

² Agency for Healthcare Research and Quality, Medical Expenditure Panel Survey (MEPS) 2021. [Chartbook #26: MEPS Insurance Component Chartbook 2021 \(ahrq.gov\)](#).

³ *Ibid.*

rate peaking at over 14 percent in 2020, according to the Commonwealth Fund. Employer-based insurance can and should continue to be the foundation of our nation's coverage.

Promote innovation and diversity of plan designs and offerings for employees.

Employers have led the way in benefit design and innovation for decades and will continue to do so for many 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 regardless of where that workforce is located.

A recent example is the onset of the pandemic, which presented immense challenges to the workforce. During that time, many employers expanded the ways through which enrollees could get mental health or substance abuse services, and others developed new resources, such as employee assistance programs.

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. We urge Congress additionally to remove barriers for employers to participate in advance payment initiatives, such as direct contracting, centers of excellence and high-performance networks.

P4ESC also urges action on bipartisan legislation to increase affordable options for patients and employers. Congress should empower and 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.

HSAs were created nearly 20 years ago, but regulations about how individuals can use their HSA dollars have not kept pace in today's changing benefits landscape. One very important change to consider would be to provide pre-deductible coverage for primary care. We acknowledge that HSAs are not within this Committee's jurisdiction.

Address medical costs and challenges.

The fiscal viability and rising cost of our nation's health care system have long been debated, even before the COVID pandemic. Though many proposals have sought to address the ***demand side*** of health care spending by discouraging utilization, the better approach would be to address the ***supply side*** of health care spending. The rising cost of hospitalizations and prescription drugs are unsustainable in the long-run, and are a major factor driving the increase in cost of employer plans. We urge Congress to address the supply side of health care spending.

Rising health care costs are the greatest challenge in employer-sponsored health coverage. Small business owners have cited this as a leading challenge for more than 30 years.⁴ Medical care from doctors, hospitals, and other medical providers is too expensive as are prescription drugs and biologics.

Pharmaceutical manufacturers, Pharmacy Benefit Managers (PBMs), and others are wrapped up in a convoluted and mutually dependent web that adds needless cost to coverage. Greater transparency of the pharmaceutical supply chain has helped to a degree, but the market has ultimately proven to be an insufficient governor of supply and cost. Additional steps to improve transparency and greater oversight and regulation of the pharmaceutical supply chain are needed. We also urge other committees of this Congress to investigate the current patent approval process and the apparent gaming of patents by incremental changes to extend patent exclusivity.

Health sector consolidation

P4ESC and businesses of all sizes long have been concerned by health sector consolidation and limited access to certain provider groups. The growth of private equity involvement in health care has fueled increased consolidation and higher health care costs. Congress should encourage the FTC to examine consolidation of hospitals and physician practices by private equity more closely and continue oversight on its progress.

Employers and employees face particular challenges in finding available and affordable mental and behavioral health care, especially with the severe provider shortage in the U.S. According to HHS, 129.6 million Americans live in areas designated as “Mental Health Professional Shortage Areas”⁵ and 6,559 additional behavioral health providers⁶ are needed to fill these provider gaps⁷. Moreover, some mental health providers decline to participate in health insurance networks at any price. Because many mental and behavioral health providers choose not to go in-network, employees can face large out-of-network bills for care sought and experience trouble finding available providers. It will take the efforts of all stakeholders to resolve this vexing issue.

It is important to stress that efforts to evaluate provider availability 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 are counterproductive unless there is a countervailing requirement for providers to participate in one

⁴ National Federation of Independent Business, www.nfib.org

⁵ Bureau of Health Workforce Health Resources and Services Administration, U.S. Department of Health & Human Services, “Designated Health Professional Shortage Area Statistics.” September 30, 2021, available at <https://data.hrsa.gov/Default/GenerateHPSAQuarterlyReport>.

⁶ Behavioral health providers are health care practitioners or social and human services providers who offer services for the purpose of treating mental disorders including: psychiatrists, clinical social workers, psychologists, counselors, credentialed substance use specialists, peer support providers, and psychiatric nurse providers.

⁷ Bureau of Health Workforce Health Resources and Services Administration, U.S. Department of Health & Human Services, “Designated Health Professional Shortage Area Statistics.” September 30, 2021.

or more networks. We strongly urge mental health care providers to join our networks to provide needed care to our employees and covered dependents.

Uphold the tax treatment of employer-sponsored coverage.

The exponential growth in our nation's employment-based health coverage system can be traced back to a cap on wages initiated during World War II to stifle inflation. Employers began offering so-called fringe benefits – such as health coverage – to offset the limit on wages and attract employees. For decades, employees and employers have benefited from the preferences in the federal tax code that: exclude the value of employment-based health coverage from an employee's income; allow for the pre-tax payment of an employee's premiums for employment-based health coverage; and enable employers to deduct the cost of health coverage as a business expense.

The direct benefits and federal spending offsets of employer-provided coverage result in an annual net social impact of \$1.5 trillion, driven by increased labor participation, business formation, increased health coverage, and reduced federal health subsidies. Each dollar of federal expenditure – the tax revenue foregone for employer-provided coverage – yields approximately \$5.34 in benefits for covered employees and their families, according to the National Bureau of Economic Research.

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's 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 decision to offer coverage and determine which type of coverage to offer their employees, the administrative compliance costs and complexities associated with coverage are critical to their consideration.

The compliance requirements under the *Affordable Care Act (ACA)* have always been complex and administratively burdensome on employers. P4ESC has long advocated bipartisan legislation to provide a more streamlined approach to the IRS employer information reporting requirements, the 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 (e.g., the *Commonsense Reporting Act*) 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 of an applicable large employer and the definition of a full-time employee 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

As a coalition representing businesses of all sizes, the Partnership for Employer-Sponsored Coverage appreciates the opportunity to provide these comments to members of the Subcommittee. P4ESC represents employers across the spectrum of the employer system – from the smallest family-owned business to the largest corporation. Employers have a significant stake in developing and implementing health care policies, and we look forward to working with you and your colleagues in a bipartisan manner throughout the 118th Congress. If you or your staff would like to meet to discuss the issues raised in our statement, please have your staff contact P4ESC’s Executive Director Neil Trautwein at neil@trautweinstrategies.com.