



## PARTNERSHIP FOR EMPLOYER-SPONSORED COVERAGE

February 28, 2019

The Honorable Lamar Alexander  
Chairman  
U.S. Senate Committee on Health, Education, Labor, and Pensions  
428 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Alexander:

We write as the Partnership for Employer-Sponsored Coverage to provide you with recommendations on addressing America's rising health care costs. Thank you for this opportunity to respond to your request letter of December 11, 2018.

The Partnership for Employer-Sponsored Coverage is an advocacy alliance of employment-based organizations and trade associations representing businesses of all sizes and the over 181 million American workers and their families who rely on employer-sponsored coverage every day. We are committed to working to ensure that employer-sponsored coverage is strengthened and remains a viable, affordable option for decades to come.

Employer-sponsored coverage has been the backbone of our nation's health system for nearly eight decades. Employers of all sizes contribute vast resources to employees and their families through the employer-sponsored system. Employers 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 themselves. There is no one-size-fits-all employer plan. A larger employer who offers self-insured coverage – which comes with the most financial risk but has the benefit of being tailored for their workforce's specific needs – is considerably different from a smaller or midsize employer who offers fully-insured coverage – which faces the fiscal pressures of the individual and small group market without the ability to tailor coverage. The foundation of the employer-sponsored coverage system is rooted in workforce policy and business operations. Employers of all sizes offer coverage for employee recruitment and retention, and the functionality of a business is centered around a productive, thriving, and healthy workforce.

As the Committee continues its work to address rising health care costs, we would like you to take into consideration policies that ensure employer-sponsored coverage is preserved and thrives for generations of hardworking Americans to come. Our public policy principles include:

***Preserving the current tax treatment of employer-sponsored coverage.*** 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. Capping or modifying the individual tax exclusion of



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employment-based coverage 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.

***Promoting 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 that stifle an employer's ability to develop benefits offerings that meet the needs of their specific workforce. 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.

***Providing 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.

Specifically, we would like Congress to provide employers with compliance relief under three operations-related areas under the Affordable Care Act employer requirements: annual reporting to the Internal Revenue Service (IRS); the employee full-time definition; and the definition of a seasonal employee. We endorse legislation to enable employers to report annual offer of coverage data to the IRS prior to the Exchange open enrollment period, which eliminates the need to send 1095 tax forms to all employees, and protects the privacy of Social Security numbers. Additionally, we endorse legislation to align the ACA definition of full-time under the employer mandate with the FLSA definition of overtime, which provides American workers and employers with clarity of a consistent federal standard, enables employees to have more flexible work options, and makes it easier for employers to provide more hours to all employees. Further, we endorse legislation to simplify the ACA's complicated workforce tracking requirement by establishing a single threshold of six-months for the determination of seasonal employment.

***Repealing the Affordable Care Act taxes on employer-sponsored coverage.*** We endorse fully repealing the 40 percent excise tax and health insurance tax. The 40 percent excise tax would force employers to cut or limit employee benefits. The tax is a blunt instrument that proponents envision will address the demand side of rising health costs. While dubbed the Cadillac tax because the provision was targeting "high cost" employer-sponsored health coverage, it would impact the vast majority of employee benefits plans.

Further, for small and mid-size employers who disproportionately rely on coverage through the fully-insured market, in which an employer purchases a pre-designed plan from an insurance carrier, the HIT strikes a direct blow to their plan premiums. The HIT is a direct tax on fully-insured carriers which is passed along to the customer – small and mid-size businesses and the millions of hardworking Americans and their families that are enrolled in this type of employment-based coverage. The inclusion of the HIT was as an offset for other provisions of the ACA. The consequences of this tax levied on the fully-insured market mean higher premiums on employees and employers.





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*Protecting the Employee Retirement Income and Security Act (ERISA).* By and large, ERISA provides employers of all sizes operating across state lines with the ability to comply with consistent federal benefits and fiduciary standards without having to adhere to numerous individual state laws. ERISA enables employers to offer uniform health coverage to their workforce regardless of the employee's state of residence. While we appreciate the interest of providing states with additional flexibility to reform insurance Exchanges and improve the individual and small group insurance markets, we would oppose efforts that would preempt the federal foundation under ERISA and require employers to adhere to individual state-by-state requirements.

### Conclusion:

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 the development and implementation of health care policies, and we look forward to working with you and your colleagues in a bipartisan manner throughout 116<sup>th</sup> Congress.

Sincerely,

American Hotel & Lodging Association  
American Rental Association  
American Staffing Association  
Associated Builders and Contractors, Inc.  
Associated General Contractors of America  
Auto Care Association  
The Council of Insurance Agents & Brokers  
Food Marketing Institute  
HR Policy Association  
International Franchise Association  
National Association of Health Underwriters  
National Association of Wholesaler-Distributors  
National Restaurant Association  
National Retail Federation  
Retail Industry Leaders Association  
Society of American Florists  
Society for Human Resource Management

Cc:

The Honorable Patty Murray, Ranking Member, Senate HELP Committee  
Members of the Senate HELP Committee

