



**Division of Health Care Finance and Policy
Consultative Session**

Wednesday, June 21, 2006

Submitted by:

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Commissioner Lischko, Assistant Commissioner McCabe, thank you for this opportunity to provide comment relative to the implementation of Chapter 58 of the Acts of 2006. The Massachusetts Business Roundtable (MBR) has been involved in the state's health care deliberations for more than 20 years, conducting research and making recommendations on health care policy through our Health Care Task Force. Last fall, when the Legislature was holding hearings on health care reform legislation, MBR provided testimony that highlighted four themes that have consistently emerged from the deliberations of the task force over the years:

- Universal access to basic medical care is a public responsibility for a society such as ours;
- A basic health care package must be consistent with the government's ability to fund such care for those without adequate means, and also consistent with the goal of controlling inflation in the cost of medical care;
- Built into the basic health care package must be strong measures that emphasize individual responsibility for health care, including provisions for co-payments, deductibles, and premium incentives to encourage wellness and reward appropriate use of the health care system; and
- The best way to achieve universal access to basic medical care at a reasonable cost is through a system where consumers exercise choice in selecting insurers and providers in a competitive market.

MBR is pleased that Chapter 58 is consistent with these themes, and welcomes the opportunity you are providing today to continue to offer input, particularly relating to the Employer Fair Share Contribution, the Free Rider Surcharge, and the Health Insurance Responsibility Disclosure.

Fair Share Assessment

Before Chapter 58, employers who provided health coverage paid a surcharge to the free care pool while those that did not provide coverage did not make contributions to the pool. Under the health care reform legislation, employers with more than 10 employees who do not provide any health coverage will pay their share of free care costs to the pool directly through the fair share assessment. The question before the DHCFP is to interpret what constitutes “fair and reasonable contribution” for purposes of the fair share assessment.

MBR believes that any employer that currently contributes to health care coverage, and is therefore contributing to the free care pool, should be exempt from the assessment. This should include any employer that contributes to coverage for its eligible employees and should not be interpreted as a mandate to provide and contribute to health insurance coverage for their entire workforce.

In defining “fair and reasonable,” MBR recognizes that all parties – employers, consumers, providers, payers, government and advocacy groups – have a shared responsibility to address the health coverage issue. So if good faith attempts to offer insurance by an employer are made, it should be recognized.

Free Rider Provisions

The health care reform law requires companies with more than 10 employees to adopt and maintain a cafeteria plan that complies with Section 125 of the IRS code. The purpose of this provision is to enable individuals to purchase health insurance in pre-tax dollars, as businesses are able to do today. MBR supports this provision. The penalty for firms that do not comply with that requirement, the so-called “non-providing employers,” is the free rider surcharge.

The establishment of a section 125 plan requires additional paperwork, adding a deduction to payroll for employees currently not eligible and maintaining the plan in compliance with internal revenue code requirements. This raises questions as to whom will be responsible for collecting health insurance premiums deducted pre-tax from payroll when a part-time employee does not earn enough in a given pay period to cover the cost of the premium. Though supportive of the concept, employers are concerned with the additional administrative and compliance burden the free rider surcharge presents.

Employers are also concerned about the potential for abusing the new system. For example, if a company is billed for the cost of free care provided to an employee or their dependent, information specific to the treatment received or for whom cannot be stated on the bill. Employers will be faced with the impossible task of verifying the accuracy of the charge and whether or not the patient is in fact an employee without access to any relevant information.

MBR urges that these concerns be addressed during the new law's implementation.

Health Insurance Responsibility Disclosure Form (HIRD)

The Health Insurance Responsibility Disclosure (HIRD) form requires every Massachusetts' employer and employee to complete and sign a form, under oath, with respect to health care coverage. Employers will indicate whether or not they offered to pay for or arrange for the purchase of health insurance, whether or not the employee has accepted or declined and whether the employee has an alternative source of coverage.

With the cost of doing business already high in Massachusetts, MBR urges that new administrative burdens and paperwork be kept to a minimum. For example, since the tax code is the mechanism by which the individual mandate will be enforced, perhaps the individual income tax return is the more appropriate vehicle for self-reporting rather than the HIRD. In addition, the HIRD could potentially require all employers to now collect the social security numbers of their employees and the employees' dependents in order to enable the state to cross reference the HIRD with individual tax returns. This imposes a significant new burden on employers and raises questions as to whether employers will have to verify the accuracy and the legality of these social security numbers.

Chapter 58 is comprehensive, promising, and bold in its vision. The implementation, though daunting in its scope, is also exciting in its possibility. MBR stands ready to continue to assist in this effort as we pursue our shared goals of reduced costs and increased coverage so that everyone in the Commonwealth has access to quality health care.