



300 Elliott Avenue West  
Suite 300  
Seattle, WA 98119-4118  
Phone 206-216-2500  
Fax 206-283-6122  
E-mail: leog@wsha.org

Date: March 28, 2006

To: The Honorable Patty Murray  
United States Senator

From: Randy Revelle, Senior Vice President

**RE: Health Insurance Marketplace Modernization and  
Affordability Act (S. 1955)**

---

The Washington State Hospital Association understands the challenges small employers face ensuring health care for their employees is available and affordable, but we are greatly concerned with the language of S. 1955 as recently passed by the Senate Health, Education, Labor and Pensions Committee.

By allowing employers to bypass state mandates and protections, S. 1955 would override hundreds of vital consumer protection laws. They should not be compromised based on the myth that eliminating health care mandates cuts costs.

In Washington State, health care mandates from mammograms to mental health parity would be eliminated. In 2005, Washington State enacted mental health parity with strong bi-partisan support.

The Washington State Hospital Association is committed to providing affordable access to quality health care for all people in Washington State. S. 1955 would negatively impact our state's hospitals because health plans that provide key benefits would be priced out of the market, resulting in plans that do not cover basic and preventive care. S. 1955 would jeopardize:

- Coverage for hospitals complying with the Emergency Medical Treatment and Labor Act;
- Adequate care for chronic illnesses such as diabetes, resulting in emergency room care instead of maintenance care;
- Maternity length of stay coverage; and
- Emergency medical care coverage based on our state's prudent layperson standard.

Please protect quality health care in Washington State and continue your strong opposition to S. 1955. The attached documentation addresses the economic impact of health care protections/mandates and how adequate patient care is beneficial to our entire state.

March 28, 2006

## ATTACHMENT: DOCUMENTATION

**More than 1,000 state consumer protection laws, including mental health parity, would be eliminated:** S. 1955 would override laws prohibiting insurers from discriminating on the basis of health status, age, geography or gender in setting insurance premiums and will drive up premiums for those with the greatest need.

**Cancer prevention, screening, and treatment could be jeopardized:** Breast cancer accounts for nearly one in three cancers diagnosed in U.S. women. Mammography is the single most effective method of early detection, since it can identify cancer several years before physical symptoms develop. S. 1955 would preempt this crucial mandate.

**S. 1955 would impact pooling risk:** S. 1955 allows employers the option of providing a very limited health plan with high deductibles and limited benefits. In seeking to provide for lower cost health insurance, S. 1955 would fail those most in need of good coverage. It would do so by weakening the fundamental protection insurance provides, that of pooling risk.

**S. 1955 will increase consumer rates:** Rates will become unaffordable for those who need insurance most because it will reduce our state's ability to limit factors that may be used to develop community rates in the small group market. Application of factors permitted under this bill will double or triple the rates consumers currently pay.

**Overriding state prohibitions and limits will result in adverse selection:** S. 1955 will lead to adverse selection, or "cherry picking," by allowing insurers in small group markets to charge different premiums to all small groups based on the health care needs of their workers and dependents, as well as other factors. The bill also allows insurers to discourage coverage among sick individuals by offering policies that will only be attractive to those without immediate health care needs – raising the cost of higher level coverage. The end result will be cost shifting to older and sicker people who will eventually lose coverage altogether.

**S. 1955 will not increase the number of insured:** The Institute of Medicine in its 2004 report, "Insuring America's Health," recommends incremental or system-wide reforms that could be implemented to expand coverage and address high insurance coverage costs. The institute has not suggested the preemption of state consumer protections laws as a means for addressing the uninsured problem.

**S. 1955 preempts state insurance regulations:** Basic tools of state insurance regulation, such as requirements that insurers file policy forms specifying covered benefits and file rates and an explanation for how rates are calculated, would be preempted by S. 1955. Consumers would also lose protections they currently have against unfair claims handling practices.

**Health care benefits mandates in Washington State:** Historically, the term "mandate" referred to health care benefits required by law. Many of Washington State's health insurance laws were written for purposes of consumer protection (the Patient Bill of Rights), reasonable clinical standards of practice (maternity length of stay), or simply to create common rules among carriers (adoptive children must be treated in the same manner as other dependent children). In our judgment, the term "mandate" should **not** be applied to these other health insurance laws.

**Washington State has only nine mandated health care benefits providing coverage for:**

- Breast health — mammograms and reconstructive breast surgery resulting from a mastectomy due to disease, illness, or injury
- Chemical dependency
- Dental procedures
- Diabetes
- Emergency medical services
- Mental health parity
- Neurodevelopmental therapies for children
- Phenylketonuria

**Mercer studies demonstrate that savings from eliminating state mandates would be small:** Recent studies by Mercer Human Resource Consulting on the costs associated with state mandates concluded:

- In Maryland, the full cost of 40 mandated benefits equals about 15 percent of premium; if all 40 mandates were removed, the marginal savings would only be about **1.6 percent** of premium.
- In Minnesota, the cost of 26 mandated benefits accounted for about 13 percent of total health care costs (almost half of this total is for maternity benefits); if all 26 mandates were removed, the marginal savings would only be about **1.3 percent** of premium.

**Mental health parity results in minimal premium increases:** With appropriate care management, mental health parity results in **less than a one percent increase** in premiums. For example, the Federal Employees Health Benefits Plan and at least 12 states (California, Delaware, Maine, Maryland, Minnesota, New Hampshire, North Carolina, Pennsylvania, Rhode Island, South Carolina, Texas, and Vermont) have **actual documented experience** that implementing parity increased premiums by less than one percent.

**Businesses benefit from mental health parity:** In 1999, the U.S. Surgeon General estimated the direct business cost of a lack of mental health parity was at least \$70 billion each year. This cost is based on absenteeism, lost productivity, and claims for disability and unemployment insurance due to untreated mental illness.