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GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DEPARTMENT OF LABOR & ECONOMIC GROWTH
ROBERT W. SWANSON, ACTING DIRECTOR

LINDA A. WATTERS
COMMISSIONER

April 12, 2006

The Honorable Debbie Stabenow
United States Senate
133 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Stabenow:

As Commissioner of the Michigan Office of Financial and Insurance Services (OFIS), I am writing to express opposition to S. 1955, the "Health Insurance Marketplace Modernization and Affordability Act of 2005," as introduced by Senators Enzi and Nelson.

First, let me be clear that I strongly support the objective of making health insurance affordable and accessible to small businesses. However, I believe that this legislation would not make health insurance more affordable or accessible. In fact, the approach in this legislation would do more harm than good.

I recognize that S. 1955 is not the Associated Health Plan (AHP) legislation of prior congressional sessions and has been subject to many changes, some even at the request of the National Association of Insurance Commissioners (NAIC). However, many Commissioners, including myself, who are members of the NAIC still have a number of serious concerns with S. 1955.

Small Group Market Reform in Michigan.

Since the mid-nineteenth century, the United States insurance industry has been regulated primarily by the states. Because of that, insurance regulation is not a cookie-cutter industry – many very important differences exist between regulating states. The primary concern is that this legislation supersedes state small group rating rules and that preemption will lead to unintended harm to those who are older and less healthy. Deciding how risk will be spread in the market is very complicated and cannot be done on a "one size fits all" basis. The State of Michigan is in the best position to make these determinations for Michigan consumers.

In 2003, Governor Granholm signed legislation that provided small group insurance reform in an effort to stabilize health insurance costs and to expand access to coverage. Michigan was one of the last states to enact this type of reform, enabling us to build

upon the successes of other states. As a result of these reforms, premium increases to small employers have slowed dramatically since 2003. However, exempting small business health plans from the new Michigan law will eliminate the limit on how much and how often premiums can be increased, leaving some Michigan consumers at risk of paying double digit premium increases.

S. 1955 would also greatly expand the upper limit on the range of premiums that a carrier could charge groups with sick employees or whose spouses or children are sick. This could have the effect of excluding employees of small businesses from coverage and would seriously threaten the health security of Michigan's most vulnerable employee groups.

Benefit mandates.

Compared to other states, Michigan has enacted very few benefit mandates. This means that the cost of those mandates does not by itself present a barrier for small businesses that wish to purchase health insurance in the Michigan marketplace. Still, S. 1955 would only require carriers to offer plans that provide coverage for mandates that exist in 45 or more states – a very short list of required benefits (e.g. mammography, alcohol abuse treatment, diabetic supplies, mental health parity, breast reconstruction, maternity stay, emergency services, chiropractors, and optometrists). Benefits that will no longer be required for Michigan citizens that are covered by small business health plans would be:

- hospice care;
- antineoplastic drug therapy;
- access to obstetrician/gynecologist;
- access to pediatrician;
- diabetic drugs and prevention of diabetes programs; and
- newborn coverage.

If S. 1955 were to become law, purchasing a health insurance policy in Michigan will become much more confusing. An individual who purchases a comprehensive health insurance policy has certain expectations regarding the type of coverage it provides. Removing certain coverages or benefits will make the purchase of such comprehensive coverage more confusing to the insured.

Selective marketing.

Another concern OFIS has with S. 1955 is allowing carriers offering small business health plans to selectively market their product to some groups and not to others. This practice is commonly known as "cherry-picking." If cherry-picking is allowed, the pool of individuals left in the "regular marketplace" will suffer large rate increases. As part of the 2003 Michigan reforms, all carriers are required to offer all of their available small

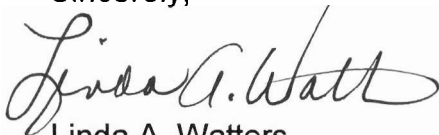
employer plans to all small group employers (guaranteed issue) and are required to annually offer the renewal of the plan it has sold to a small employer (guaranteed renewability).

Also, because there are no limitations on employers moving in and out of the regular small market pool to the new pool created by S. 1955, an employer who had coverage under a small business health plan could reverse that decision and seek the more comprehensive coverage from an entity subject to Michigan's statutory requirements. This is known as adverse selection. The employer would then be free to switch back to the small business health plan when the comprehensive coverage is no longer needed, making coverage more expensive, if not unaffordable, to those whose only choice is to purchase coverage in the regular pool.

I fear that this legislation would bifurcate the small employer health insurance marketplace in Michigan. While some groups may be charged lower premiums at the outset, many, including some of our most vulnerable citizens, may be priced out of the market, raising the number of uninsured. To be sure, all Michigan small employer groups who purchase insurance under the provisions of S. 1955 would lose the consumer protections and rate stability they now enjoy under Michigan law.

Due to the negative impact this legislation could have on Michigan consumers, I urge you to oppose this legislation in its current form. Please let me know if you have any questions or need any further information. I appreciate consideration of my views.

Sincerely,



Linda A. Watters
Commissioner