

## **Massachusetts Business Community Letter In Support of a Waiver from the Affordable Care Act**

November 21, 2013

Senator Elizabeth Warren  
2 Russell Courtyard  
Washington, DC 20510

Re: Massachusetts ACA Rating Factor and Quarterly Filing Waiver

Dear Senator Warren:

We are writing on behalf of thousands of employers in the state of Massachusetts to once again ask you for your help in granting Massachusetts flexibility to maintain its current rules as the state reconciles the Affordable Care Act (ACA) with Massachusetts Health Care Reform.

We have repeatedly asked that flexibility be granted to our state only to be told that the Administration does not have the authority within the law to grant it. Yet, the Secretary of Health and Human Services has approved more than 1,200 applications for waivers on certain ACA provisions. We have also observed numerous modifications made through administrative actions without the explicit legal authority.

A review of the administrative actions taken this year includes:

- The recent one year delay of insurance cancellations.
- Allowing members of congress and their staff to retain their federal employer contribution for health insurance.
- One year delay in the employer pay or play mandate until 2015.
- A one year delay of offering arrangements in federal SHOP exchanges for small businesses until 2015.
- A one year delay on setting out-of-pocket limits for consumers, including co-pays and deductibles, until 2015.
- A one year delay in the Basic Health Program, to help cover low-income people whose income is too high to qualify for Medicaid until 2015.

Given the number of administrative actions and waivers granted, we are left to wonder why our reasonable request for a limited waiver from two small provisions of federal reform has been denied for the one state in the nation that has already accomplished what the federal law is setting out to do.

The first provision limits to four the rating factors used to calculate small group health insurance premiums – age, family size, geographic area and tobacco use. Massachusetts law currently allows for additional consideration of industry, participation rate, group size, intermediary discount and group purchasing cooperatives. The group size rating factor provides an important incentive to grow jobs and increase employment, while the group purchasing cooperative factor delivers premium savings to small employers who participate in collective wellness efforts. Both have proven to be valuable tools in sustaining the success of health reform in the Commonwealth.

The second provision requires states like Massachusetts that have merged the health insurance markets for individuals and small businesses to set premium rates annually. Massachusetts currently sets rates quarterly.

As Governor Patrick correctly stated in his waiver request letter to Secretary Kathleen Sebelius dated September 3, 2013, "Of particular concern is the adverse impact that the rating factor changes will have on small employers and their employees. A waiver of rating factor requirements will avoid increases in health insurance premiums for a large segment of our small employer population and their employees."

Governor Patrick's letter also notes that that there is no language expressly prohibiting waivers of the rating factors. We agree. We believe that the President can exercise the same administrative authority that he used this year for other modifications to grant Massachusetts its limited waiver. We ask that you work with his Administration to expeditiously provide Massachusetts this waiver. We also ask that you simultaneously file legislative language to grant Massachusetts a waiver in the event your efforts to secure it administratively are unsuccessful. Without this waiver, many small employers in this state will see their health insurance premiums increase by as much as 57%. These steep increases are simply unaffordable for small employers and risk our impressive 97% coverage rate in the event that employers discontinue providing health insurance to their employees.

Thank you for your assistance in this extremely important matter.

Affiliated Chambers of Commerce of  
Greater Springfield

American Council on Engineering  
Companies of Massachusetts

Associated Industries of Massachusetts

Berkshire Chamber of Commerce

Cambridge Chamber of Commerce

Cape Ann Chamber of Commerce

Cape Cod Canal Region Chamber of  
Commerce

Construction Industries of Massachusetts

Fall River Area Chamber of Commerce and  
Industry, Inc.

Falmouth Chamber of Commerce

Greater Boston Chamber of Commerce

Greater Chicopee Chamber of Commerce

Greater Gardner Chamber of Commerce

Massachusetts Business Roundtable

Metro South Chamber of Commerce

MetroWest Chamber of Commerce

Neponset Valley Chamber of Commerce

National Federation of Independent  
Business

New Bedford Area Chamber of Commerce

North Shore Chamber of Commerce

Peabody Chamber of Commerce

Retailers Association of Massachusetts

Smaller Business Association of New  
England

South Shore Chamber of Commerce

The United Regional Chamber of  
Commerce