



MURIEL BOWSER  
MAYOR

OCT 15 2018

The Honorable Phil Mendelson  
Chairman  
Council of the District of Columbia  
1350 Pennsylvania Avenue, NW, Suite 504  
Washington, DC 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia is a bill entitled the "Health Insurance Marketplace Improvement Amendment Act of 2018" ("Bill"), and the accompanying emergency declaration, temporary and permanent versions. The legislation protects District residents from two federal rules that expand association health plans ("AHP") and short-term, limited-duration ("STLD") health plans in ways that would endanger the individual and small group insurance markets in the District.

This legislation amends the Health Insurance Portability and Accountability Federal Law Conformity and No-Fault Motor Vehicle Insurance Act of 1998 to revise definitions and applies the requirements of the law to multiple employee welfare arrangements ("MEWAs"). The Bill also expands the rulemaking authority of the Commissioner of the Department of Insurance, Securities and Banking, and imposes other requirements on MEWAs and short-term, limited-duration health insurance plans. Further, the Bill amends the Reasonable Health Insurance Ratemaking and Health Care Reform Act of 2010 to apply its requirements for small employers to certain MEWAs. Finally, the legislation amends the Federal Health Reform Implementation and Omnibus Amendment Act of 2014 to further specify the provisions of the federal health acts incorporated by reference and apply the small group requirements of these acts to MEWAs.

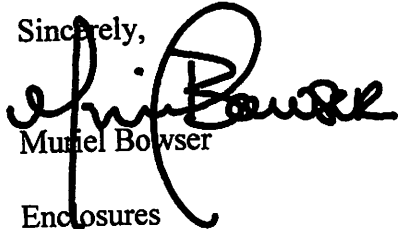
In June 2018, the U.S. Department of Labor issued a final rule that significantly changed the manner in which AHPs, which are a specific type of MEWA, are regulated. The rule makes it much easier for an association to be considered a single multi-employer plan under ERISA. Under this construction, AHPs do not have to comply with many of the Affordable Care Act's ("ACA") most important consumer protections, including the provisions requiring essential health benefits and the rating rules codified in the law. In August 2018, the U.S. Departments of Health and Human Services, Labor, and Treasury issued a final rule to dramatically expand the time individuals may use STLD health plans. This rule enlarges the maximum duration of these plans from 3 months to 36 months. Short-term plans do not have to comply with the market reforms of the ACA, and insurers are, among other things, allowed to charge higher premiums

based on health status, exclude coverage for pre-existing conditions, require higher out-of-pocket cost sharing, and opt not to cover entire categories of benefits.

The federal rules on AHPs and STLD health plans are effective on September 1, 2018 and October 2, 2018, respectively, and could adversely impact the District's 2019 individual and small group market premiums. The potentially detrimental and destabilizing effects on the District's insurance market create a compelling need for corrective legislative action.

Accordingly, I urge the Council to act favorably and expeditiously on the proposed Bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Mufiel Bowser". The signature is written in a cursive style with a large, looping initial "M".

Mufiel Bowser

Enclosures



Chairman Phil Mendelson  
at the request of the Mayor

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A PROPOSED RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To declare the existence of an emergency with respect to the need to protect and enhance the affordability and stability of premiums in the individual and small group health insurance markets by providing new protections to consumers who obtain insurance from multiple employer welfare arrangements and obtain coverage from the short-term limited duration health insurance market.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Health Insurance Marketplace Improvement Emergency Declaration Resolution of 2018”.

Sec. 2. (a) In June 2018, the United States Department of Labor issued a final rule that significantly changed the manner in which association health plans (“AHPs”) are regulated. The rule makes it much easier for an association to be considered a single multi-employer plan under ERISA. If so considered, AHPs do not have to comply with many of the Affordable Care Act’s most important consumer protections, including the provisions requiring essential health benefits and the rating rules codified in the law. *See* Patient Protection and Affordable Care Act of 2010, approved March 23, 2010, 124 Stat. 119, Pub. L. 111-148, and the Health Care and Education Reconciliation Act of 2010, approved March 30, 2010, 124 Stat. 1029, Pub. L. 111-152 (collectively, the “ACA”),

36 (b) In August 2018, the United States Departments of Health and Human  
37 Services, Labor, and Treasury issued a final rule to dramatically expand the time  
38 individuals may use short-term, limited-duration (“STLD”) health plans. The rule  
39 enlarges the maximum duration of these plans from 3 months to 36 months. Short-term  
40 plans do not have to comply with the market reforms of the ACA, and insurers are,  
41 among other things, allowed to charge higher premiums based on health status, exclude  
42 coverage for pre-existing conditions, require higher out-of-pocket cost sharing, and opt  
43 not to cover entire categories of benefits.

44 (c) Both the Mayor and the Council have taken notice of the detrimental effects  
45 that each of these federal rules will have on health care coverage in the District of  
46 Columbia, memorializing the objections and explaining the potential destabilizing effects  
47 on the District’s insurance market in a comment letter to the U.S. Secretary of Labor  
48 prior to both rules becoming final.

49 (d) The federal rules on AHPs and STLD health plans take effect on September  
50 1, 2018 and October 2, 2018, respectively, and could adversely impact the 2019  
51 individual and small group market premiums. The Council must therefore act  
52 immediately to protect consumers from the negative effects of these newly-authorized  
53 insurance products and to avoid damage to the District’s individual and small group  
54 health insurance markets.

55 Sec 3. The Council of the District of Columbia determines that the circumstances  
56 enumerated in section 2 constitute emergency circumstances making it necessary that the  
57 Insurance Marketplace Improvement Amendment Act of 2018 be adopted after a single  
58 reading.

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Sec. 4. This resolution shall take effect immediately.

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