

AMERICAN COUNCIL ON EDUCATION



OFFICE OF THE PRESIDENT

January 8, 2010

The Honorable Nancy Pelosi
Speaker, House of Representatives
H-232 Capitol Building
Washington, DC 20515-6501

The Honorable Harry Reid
Senate Majority Leader
S-221 Capitol Building
Washington, DC 20510-7020

The Honorable John A. Boehner
House Minority Leader
H-204 Capitol Building
Washington, DC 20515-6537

The Honorable Mitch McConnell
Senate Minority Leader
S-230 Capitol Building
Washington, DC 20510-7010

Re: Health Care Reform Legislation

Dear Speaker Pelosi, Majority Leader Reid, Minority Leader Boehner, and Minority Leader McConnell:

On behalf of the American Council on Education and the undersigned higher education associations, I am writing concerning the House-passed Affordable Health Care for America Act (H.R. 3962) and the Senate-passed Patient Protection and Affordable Care Act (H.R. 3590). We represent the nation's two- and four-year, public and private colleges and universities.

As major employers, colleges and universities struggle every day to manage the cost of providing health insurance to employees and their families. Rising health care costs are among the most significant drivers of tuition prices at colleges and universities. In addition, our member institutions seek to advance the common good through teaching, research and public service. For these reasons, we applaud the efforts in these bills to help reduce the growth rate of health care costs, extend health insurance to millions of uninsured Americans in a fiscally responsible manner, and prohibit a range of practices that restrict health insurance coverage.

Both bills help to ensure that college students have access to health insurance by raising the age under which students can continue to be covered by their parents' health insurance. We especially appreciate that the Senate version explicitly permits colleges and universities to continue to offer health insurance plans to their students. The bills will also enhance access and improve health care over the long term through new programs supporting innovative medical research.

Despite these noteworthy steps, there are two key issues that raise serious concerns for colleges and universities that we ask you to consider in your deliberations on the final version of the legislation.

First, as currently written, H.R. 3590 threatens the ability of colleges and universities to continue to offer students group-like insurance plans that are both high quality and low cost because it applies the individual market reforms to such plans. This would ultimately increase the premiums students pay because the policies would be rated and priced with all policies sold in the

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individual market. Increased student health insurance premiums would add to the total costs students pay to attend college. This is counter-productive to the significant actions Congress and the administration have taken to make both higher education and health care more affordable. We offered a proposed solution to this problem (which is enclosed for your information) but regrettably, it was not included in the manager's amendment. We respectfully request that you preserve the current exemption that protects the ability of colleges and universities to offer high-quality and low-cost coverage for students. This would prevent an unnecessary increase in student health insurance premiums and the cost of a higher education.

Second, we are deeply concerned about the impact of future increases in Medicaid costs on state funding for public higher education institutions and state-based student financial aid programs. Past analysis by Office of Management and Budget Director Peter Orszag and others has demonstrated a direct and inverse relationship between Medicaid costs and state support for higher education—as the states' share of Medicaid costs have increased, states' funding for higher education institutions and programs have decreased. We recognize the importance of Medicaid expansion to increasing the number of Americans with health insurance, and we applaud provisions in the bills that would provide federal subsidies for the increased state share of Medicaid costs through 2016. We urge you to consider additional ways to insulate states from increased Medicaid costs in the future.

Both of these bills represent a historic effort to reform and improve our nation's health care system. However, as with any legislation that has sought to address an issue as complex as this one, there are elements that would result in unintended consequences. As you develop the final version of the legislation, we appreciate your consideration of our concerns and the potential effects on students and higher education institutions. We look forward to working with you to address these concerns.

Sincerely,



Molly Corbett Broad
President

MCB/ldw

On behalf of:

American Association of State Colleges and Universities
American Council on Education
Association of American Universities
Association of Jesuit Colleges and Universities
Association of Public and Land-grant Universities
Council of Graduate Schools
National Association for Equal Opportunity in Higher Education
National Association of Student Financial Aid Administrators
United Negro College Fund

Attachment

Preserving Affordable Student Health Insurance

SUMMARY: The Patient Protection and Affordable Care Act, H.R. 3590 (“PPACA”) should preserve high quality, cost effective student health insurance/benefit plans (“SHIBPs”) offered by colleges and universities.

BACKGROUND

Many colleges and universities currently provide health insurance for their students. Nationwide, approximately 3 million students are enrolled in SHIBPs. In addition to fully insured programs, many institutions use cost-effective self-funded arrangements.

SHIBPs are typically regulated at the state level as either group health insurance (i.e. on the same basis as employer-sponsored health insurance) or under the blanket and franchise section of the insurance code as a form of group insurance. SHIBPs are also subject to certain federal laws. Between state and federal laws, SHIBPs are not a form of individual health insurance coverage from either a regulatory or operational perspective.

SHIBPs are currently defined to be a “limited duration” form of coverage under the Public Health Service Act (“PHSA”).¹ The provision exempts SHIBPs from the definition of “individual health insurance coverage” under the PHSA, which exempts SHIBPs from certain individual market requirements. Among other things, this exception permits colleges and universities to offer students high quality low cost group-like coverage that sets premiums as a large group would.

ANALYSIS

The PPACA states that nothing in the Act should be construed to prohibit institutions of higher education from offering a student health insurance plan. See section 1560 (pg 372). This language is a helpful recognition of the important role that universities play in providing student insurance. It appears, however, that even though colleges and universities can continue to offer coverage, their ability to offer effective SHIBPs may be threatened because the bill applies the individual market reforms to SHIBPs. This is problematic because:

1 See 42 USC 300gg-91. “The term “individual health insurance coverage” means health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance.”

- Non-Students- requires SHIBPs sold in the individual market to be offered to anyone who applies regardless of university affiliation and
- Loss of Group Rating Benefits- precludes the ability to continue the beneficial practice of group rating.

The individual market reforms apply to health plans “*offered in the individual market.*” Under the PPACA, the “‘individual market’ means the market for health insurance coverage offered to individuals other than in connection with a group health plan. “ See sec. 1304(a)(2) (pg 125).

Consequently, even though SHIBPs are not per se “individual health insurance coverage,” it seems that SHIBPs may nonetheless be considered in the PPACA as “coverage offered to individuals other than in connection with a group health plan,” which would prevent colleges and universities from offering high quality, cost advantageous SHIBPs on a group basis. This would appear to eliminate university based SHIBPs.

PROPOSAL

Remove current 1560(c) and replace with the following rule:

For purposes of this Act, and any subsequent amendments, college or university sponsored student health insurance coverage shall not be considered to be coverage offered in the individual market, provided that such student health insurance coverage meets the following requirements. Student health insurance coverage:

(1) must be offered by an “eligible educational institution” as defined in sections 101, 102(a)(1) and 102(b) of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002),

(2) is made available to eligible students and their eligible dependents as defined by the policy without regard to health status,

and

(3) must meet, at a minimum, the actuarial standards for the Bronze Plan as defined in this Act.

Student health insurance coverage that meets the previous three requirements shall be considered minimum essential coverage for the purposes of satisfying the individual responsibility requirements of this Act.