



Michigan Association of Health Plans

June 16, 2009

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Representative Marc Corriveau
House Office Building, 699
124 N. Capitol
Lansing, MI 48933

Re: HB 4934 and your request for information

Dear Representative Corriveau:

The Michigan Association of Health Plans (MAHP) continues to appreciate your efforts to reform the individual health care market in the state of Michigan. We also continue to thank you for opening the workgroup dialogue and we hope all workgroup participants have an opportunity to be heard within the workgroup and to provide their written positions on key issues in order to achieve full transparency in the process.

In the last workgroup meeting, you asked MAHP to provide various information. To the extent such information is available, we are providing it here. But before discussing the information we were able to gather, MAHP reiterates its current position (as set forth in greater detail in our letters to you dated May 29, 2009, and June 9, 2009, which are incorporated here by reference) that we cannot support HB 4934 and HB 4935 until the bills are sufficiently amended to address the concerns of MAHP, the consumer coalition participants, and those concerns stated in this letter. Moreover, even though MAHP may provide comments within the workgroup setting relating to specific sections of HB 4934, it must remain clear that those comments should *not* be interpreted as tacit or expressed support for the totalities of HB 4934 and HB 4935. Any assertion, therefore, that the workgroup has produced consensus among all participants, would not be valid as it relates to MAHP.

In this letter, I would like to address the specific requests of information you made of MAHP on June 10, 2009.

1. *Value of social mission spending by HMOs and commercial carriers*
MAHP has inquired of several member plans the details of social mission spending. This particular request contains many variables and necessary definitions that were not set forth in the original inquiry. Further, MAHP has learned that a specific review of

financial information would be necessary to accurately determine the total amount of social mission and charitable spending of Michigan's HMOs and commercial carriers. Such a detailed review would take an extended period of time to research and coordinate: clearly a longer period than the amount of time to produce this letter. MAHP, therefore, is unable to gather the information you requested.

2. Percentage of HMO and commercial enrollees over \$25,000 in individual claim
3. Amount of HMO and commercial annual claims paid for people who have at least \$25,000 in claim costs
4. Percentage of HMO and commercial annual claims paid for people who have less than \$25,000 in claim costs

The responses to issues 2-5 above are provided here. Although MAHP is not a clearing house for data, we have, nevertheless, provide here estimates of the data you requested using public information from OFIR, from State Coverage Initiatives, and from Dr. Katherine Swartz. Based on these data, we estimate that in 2008, \$89.7 million in individual market claims paid by HMOs and insurers not affiliated with BCBSM (65%) were for insureds with less than \$25,000 in annual claims. In 2008, these insurers and HMOs paid an estimated \$48.3 million (35%) for insureds with more than \$25,000 in annual claims. It is estimated that 101,028 covered lives (98%) had annual claims of less than \$25,000 in 2008, while 2,062 covered lives (2%) had annual claims of more than \$25,000.

5. Number of HMO and commercial enrollees
In 2008, HMOs and commercial insurers not affiliated with BCBSM had 103,090 individual market enrollees and insureds.
6. Probable value of HMO under Michigan's MBT tax
Similar to the difficulties noted in issue 1 above, MAHP has determined that a specific review of financial information would be necessary to accurately calculate the total amount of probable value MBT tax of Michigan's HMOs. Such a detailed review would take an extended period of time to research and coordinate: clearly a longer period than the amount of time to produce this letter. MAHP, therefore, is unable to gather the information you requested.
7. Average administrative costs for HMOs and commercial carriers
MAHP has researched this topic and using publically available sources (NAIC compiled statistics) found there were seven MAHP member HMOs that wrote individual market business in 2008. Based on data from the NAIC's Consumer Information Source website, these HMOs had 2008 expense ratios that ranged from 7.0% to 11.0%, yielding an unweighted average expense ratio of 9.5%. These expense ratios are based on all business types, not just individual market. The business types written by this collection of HMOs include individual, group, federal employees, Medicare, and Medicaid.

The NAIC administrative cost data relating to commercial carriers is not readily available from the NAIC source material and, as a result, MAHP is not able to gather this information.

8. *Average commission paid by HMOs and commercial carriers*

MAHP has considered this request and determined it is not able to produce this information. MAHP is a trade association. It has no authority to acquire certain information, especially that which is confidential and/or proprietary in nature. Information detailing commissions paid to agents is proprietary and not within the scope of materials obtainable by MAHP. MAHP, in addition, is sensitive to all antitrust issues and conglomeration of competitive information, such as commission data, is within the scope of antitrust rules. We therefore respectfully decline the request regarding commissions as a potential antitrust violation.

10. *Administrative expenses for United Health regarding med-suppl line of business*

As noted above, MAHP is a trade association, not an individual company. We have neither general authority nor privity based on a specific relationship to obtain the type of company-specific data that you requested. As a result, we are not able to produce the information you requested on this topic.

MAHP opposes any link between group benefit flexibility and nonprofit tax

At the HB 4934 workgroup meeting of June 10, 2009, you made a comment that causes us extreme concern. You said, in essence, the bill (HB 4934) assesses the nonprofit HMOs their taxable value in exchange for placing in the bill a clause allowing HMO benefit flexibility (in chapter 35 of the Insurance Code) for group business. A number of years ago, MAHP sought benefit flexibility in the group market to better respond to group customer demands. Because of business fluctuations, it is a concept MAHP has abandoned as immaterial.

It must be made absolutely clear, therefore, that MAHP has never sought from this bill, or the House bills of last session, any provision allowing group benefit flexibility under chapter 35. Our association, moreover, sees no reason to place such clause in this package of bills, especially to serve as the underpinning for a punitive tax upon nonprofit HMOs to fund the proposed Health Care Affordability Fund in HB 4934.

In the first meeting of the HB 4934 workgroup, Paul Duguay, MAHP Deputy Director, stated very clearly that with respect to the bill's alleged extension of group benefit flexibility, "the amendments have no value to the HMOs because, under current OFIR interpretation, the 'medically indicated' standard has not changed; therefore group coverage will likely continue to be the same as its been." But the greater import of his statement is that the HMOs simply do not seek any such amendment relating to group benefit flexibility. Clearly, any implication that the HMOs desire group benefit flexibility is incorrect and it certainly is not appropriate to include it as a pretext to exact a penalty tax upon nonprofit HMOs.

In addition to the fact MAHP did not seek any amendment to Chapter 35 within HB 4934, we reiterate our objection to HB 4934's penalty assessment upon nonprofit HMOs as a funding source for the Health Care Affordability Fund. Mr. Duguay noted that the assessment is unfounded and clearly distinct from any similar assessment upon BCBSM. He stated, consistent with MAHP's letter to you dated May 29, 2009, that "the nonprofit HMOs have earned federal tax exemption under section 501(c) of the federal tax code." The nonprofit HMOs continue this exemption by operating in ways that are not substantially associated with commercial-type insurance. Since Michigan's nonprofit HMOs undertake community rating, sharing of financial risk with providers, quality improvement initiatives, and limited open enrollment, they retain their federal tax exemption. On the contrary, BCBSM lost its federal tax exemption and as a result, there is an important distinction between the nonprofit HMOs and BCBSM.

Some "workgroup" attendees contend, as it relates to HB 4934, the federal tax distinction is immaterial because the proposed nonprofit penalty tax would be based on state law. Such argument is misplaced. The federal tax exemption distinction is absolutely material and important in this discussion. The federal tax exemption is recognized by the Michigan Treasury and operates to exempt nonprofit HMOs from some state taxes, but they remain subject to considerable property and other state taxes. This recognition by the state of Michigan is vital because without the federal tax exemption, HMOs would be subject to all forms of tax at the state and local levels.

Conversely, BCBSM's loss of federal tax exemption would have made it subject to the whole array of state and local taxes. But only by virtue of PA 350 does it enjoy its favorable state and local tax status. This state and local level exemption was not earned as a result of its business activities governed under federal law (like the community-based activities currently undertaken by Michigan's nonprofit HMOs). Rather, BCBSM's favorable state and local status was earned by its being Michigan's "insurer of last resort." Unlike the nonprofit HMOs, there is a direct link between BCBSM's duty as insurer of last resort and its favorable state and local tax status. Within the framework of HB 4934 BCBSM seeks to shed its role of insurer of last resort. If HB 4934 successfully permits BCBSM from abdicating its responsibilities, then it should be assessed accordingly. As noted earlier, Michigan's nonprofit HMOs do not seek to shed their duties of community-based activities and initiatives. Since they desire to keep their social roles, they should not be assessed in the same manner BCBSM is under HB 4934.

Sincerely,



Rick Murdock

cc. Rep. Coulouris
Rep. Marleau
House Health Policy Committee