



# *Michigan Association of Health Plans*

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## **Individual Market Reform Position Paper**

### **Individual Market Reform (HB 5282 – 5283) Is Bad Health Care Policy: It Must Be Fixed To Help Michigan Residents And Business**

Individual Market Reform legislation (HB 5282 and HB 5283) is flawed public policy with a lofty objective. These bills were developed by Blue Cross Blue Shield of Michigan (BCBSM), passed by the Michigan House of Representatives and are currently under review by the Senate Health Policy Committee chaired by Sen. Tom George.

**MAHP has identified four significant problems as the major flaws in HB 5282 and HB 5283. We are proposing specific modifications to the current legislation that will help keep the lid on costs, increase competition, protect small businesses and improve access to coverage for the uninsured.**

1. **MAHP recommends** that the common definition of “individual” that is already available, and is the standard used in the federal Health Insurance Portability and Accountability Act (HIPAA), be used in HB 5282.
2. **MAHP recommends** that HB 5282 must explicitly supersede all other provisions of Public Act 350, and Chapter 35 and Chapter 37 of the Insurance Code. Without this change there can be no “level playing field,” fair competition or choice.
3. **MAHP recommends** excluding carrier assessments that would subsidize the future losses of BCBSM. This amendment would result in other carriers offering alternatives for high-risk individuals.
4. **MAHP recommends** that if this legislation is enacted, it should require an independent and unbiased study to assess the bills’ overall impact on the individual market. The study should take place after at least 3 years of implementation and should be conducted by an independent research firm or university with expertise in this field. Conclusions of that study can then be used as a basis for any further changes, if necessary.

### **Background information:**

Approximately 89% of Michigan residents have health coverage through their employers or through Medicare and Medicaid. In addition, more than 300,000 Michigan residents are currently in the market for “individual” health insurance. The remainder of Michigan citizens are considered uninsured and represent about 11% of the state’s total population.

Currently there are no consistent set of regulations covering the “individual market” that consistently apply to all carrier types. This market is expected to grow significantly in Michigan over the next decade, so reforms in the individual market now will have a significant impact on Michigan’s future.

As passed by the House of Representatives, this legislation would allow state government to pick winners and losers between insurers in the marketplace, discouraging competition. If passed as currently written, these bills would increase the overall market share of the largest carrier and would require other insurers to subsidize that carrier’s losses.

**This one-sided approach doesn’t work.** We need a market-wide and an industry-wide solution that protects Michigan residents and employers from the dangers of HB 5282 and HB 5283.

**Individual Market Reform COULD make Michigan a better place to live and work – but it must be fair to all. MAHP supports the goals of:**

**Creating greater premium stability.** Health care inflation is inevitable, but that doesn’t mean premiums should not be stable. Properly written legislation would put limits on premium increases and link those increases to actual costs. **We are asking the Senate to keep the lid on costs.** Let’s protect Michigan residents and employers from paying more for health insurance

**Increasing competition to improve access and choice of insurance options available for all.** Michigan residents who wish to purchase individual insurance should be able to choose from a variety of insurers and plan designs. **We are asking the Senate to give individuals a choice of insurers.** Let’s allow Michigan residents and employers to choose from a wide range of health insurance companies and plans.

**Protecting small business.** Let’s help small business stay in business in Michigan. **We are asking the Senate to protect small businesses.** As written, these bills will impair the ability of small businesses to offer small group coverage. Healthy employees would likely “opt out” of group coverage, increasing costs to provide coverage for the remaining employees

**Reducing the number of uninsured.** Today approximately 1.1 million Michigan residents are uninsured. This legislation does little, if anything, to reduce the number of uninsured in Michigan. **We are asking the Senate to make sure no unintended consequences** will increase the number of uninsured in Michigan.

## **PROBLEM #1: The individual market must be more clearly defined.**

**HB 5282 includes an expansive definition of the individual market. It may include:**

- Any individual employee whose employer pays less than 50% of premium costs
- Current and future individuals covered through group conversion policies and
- Individuals purchasing Medicare supplements

### **IMPLICATIONS AS CURRENTLY WRITTEN:**

- Eliminate existing consumer protections available to the elderly
- Create instability in the small group market. This will occur as young, healthy employees “opt out” of group plans
- Result in higher premiums for older, less healthy citizens, particularly those age 50 and older who are pre-Medicare eligible

### **THE SOLUTION:**

Amend HB 5282 to define the Individual more clearly, including clarification that the Individual is 100% responsible for payment of premiums. Specifically, the Individual Market should be defined to include only those individuals who do not have a connection to a group health plan and those who are not covered by either the Medicare or Medicaid programs.

**MAHP recommends that the common definition of “individual” that is already available, and is the standard used in the federal Health Insurance Portability and Accountability Act (HIPAA), be used in HB 5282 along with provisions that “individual” is totally responsible for payment of premium.**

## **PROBLEM #2: Choice must be available to promote greater access.**

### **HB 5282 does not create a level playing field between competitors.**

As currently written, the legislation would provide to the dominant insurance provider in the market a distinct advantage over HMOs.

### **IMPLICATIONS AS CURRENTLY WRITTEN:**

As currently written, HMOs will be required to provide a more comprehensive benefit package for individual subscribers than that required of any other carrier. HMOs also would be mandated to continue open enrollment periods and accept applications for coverage from all eligible consumers. Therefore, the HMO industry will not be afforded the same flexibility as other insurance carriers to offer coverage options that individuals want or can afford. This gives an unfair advantage to one segment of the industry while placing unnecessary restrictions on another subset of the industry and restricts competition and choice.

### **THE SOLUTION:**

Amend HB 5282 to explicitly state that all provisions of Individual Market Reform apply to all carriers offering individual coverage. All entrants in the marketplace should play by the same set of rules.

**MAHP recommends that HB 5282 must explicitly supersede all other provisions of Public Act 350, and Chapter 35 and Chapter 37 of the Insurance Code. Without this change there can be no “level playing field,” fair competition or choice.**

## **PROBLEM #3: Encourage competition; don't force competitors to subsidize some carriers' losses**

### **HB 5282 creates a tax liability for other insurers. How much? No one knows!**

As currently written, this legislation permits the largest carrier in the marketplace to administer a "guaranteed access plan." Any losses related to that carrier's administration of that plan would be the responsibility of all other carriers in the individual market. The assessment (or tax) currently provided for in the legislation will be the mandated obligation of the other carriers, based on individuals who are "high risk." The largest carrier in the marketplace will define "high risk" without any input by other industry voices or regulators. Simultaneously, this would create a new tax liability for all other insurers and Michigan businesses. Further, there's no built-in incentive to streamline internal processes or to efficiently manage costs because other carriers will be paying the losses.

The HMO industry has a unique perspective on this issue. The HMO industry currently is engaged in providing services for individuals. Under statute, HMOs are required to have annual open enrollment periods for the individual consumer. As an industry, HMOs currently experience higher medical loss ratios for individual coverage than other carriers in Michigan. Without amendments to this legislation, HMOs will have to increase their premiums in order to cover future uncertainties in the marketplace related to the unfunded contingent liability necessary to cover all other carrier losses.

### **IMPLICATIONS AS CURRENTLY WRITTEN:**

- By virtue of having an unfunded contingent liability for the mandated assessment (tax), HMOs and other carriers will be forced to increase their premiums in order to remain financially viable. This will result in higher insurance costs for individuals as well businesses.
- As written, HMOs and other carriers will not have ability to influence the premium (the losses for which they are paying for in the "guaranteed access plan") nor have access to the more favorable provider payments that continues to widen the competitive gap among carriers. This factor will contribute further to the uncertainty of the "unfunded contingent liability" of all carriers and lead to increased premium costs to individuals.
- High-risk individuals who are rejected by another insurer will only have one place to go to obtain coverage. They deserve a choice. Michigan allows Medicaid recipients to have a choice of insurers. Those in the high-risk category deserve choices too.
- Other insurers will be subsidizing the largest insurance provider in the marketplace. This will give competitors little or no incentive to offer coverage to

individuals, so they'll want to limit their participation in this market. Some may even decide against doing business in Michigan.

**THE SOLUTION:**

Amend HB 5282 and HB 5283 to allow carriers to compete. In that way, they are most likely to come up with creative solutions that increase choice and affordability for consumers.

**MAHP recommends excluding carrier assessments that would subsidize the future losses of BCBSM. This amendment would result in other carriers offering alternative for high-risk individuals.**

## **Problem # 4: A history lesson: Is this a “repeat” of Small Group Market Reform?**

**We’ve been down a similar road with Small Group Market Reform.**

In 2003, a number of workgroups were formed to examine small group reform legislation. Through intensive collaboration, improvements were made to a deeply flawed plan that addressed problems within the small group market.

Despite this work (and largely confirmed in findings from a 2007 report issued by the Office of Financial and Insurance Services [OFIS] summarizing the impact of Michigan Insurance Code MCL.500.3701), Small Group Market Reform DID NOT have the desired impact.

Consider these facts from the OFIS report:

- The number of employees with health coverage through a small business has decreased by 16%.
- Since the enactment of Small Group Market Reform, 11% of insurance carriers have left the marketplace.

### **THE SOLUTION:**

The potential for unintended consequences related to HB 5282 and HB 5283 is too great a risk to take without a prudent examination of the overall impact of the legislation once it is in final form.

**MAHP recommends that if this legislation should be enacted, it should include a requirement for an independent and unbiased study to assess the bills’ overall impact on the individual market. The study should take place after at least 3 years of implementation and should be conducted by an independent research firm or university with expertise in this field. Conclusions of that study can then be used as a basis for any further changes, if necessary.**