



May 6, 2020

Hon. Mitch McConnell  
Majority Leader  
U.S. Senate  
Washington, D.C. 20510

Hon. Charles Schumer  
Democratic Leader  
U.S. Senate  
Washington, D.C. 20510

Hon. Nancy Pelosi  
Speaker of the House  
U.S. House of Representatives  
Washington, D.C. 20515

Hon. Kevin McCarthy  
Republican Leader  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressional Leaders,

On behalf of American employers self-funding the health care benefits they offer to employees and their families, we thank you for your leadership and strong response to the COVID-19 pandemic. The impact this crisis has had on our nation is far reaching, and the steps that Congress has taken, and will continue to take, on health care issues are important for long-term prevention, treatment and care.

As you may know, self-funded health plans allow employers to finance their own employees' health risks, with the overarching goal of maintaining employee health and productivity, while at the same time controlling costs effectively and providing robust benefits. These plans routinely provide comprehensive health coverage, often times at a lower cost than other types of health plans because self-funded plans are not-for-profit arrangements. Self-funded employers also have the ability to better tailor benefits to a specific employee population, and most importantly, are able to use 100% of their healthcare savings towards assisting employees and strengthening benefits, offering a more efficient way of orchestrating healthcare benefits.

Currently, self-funded employers are working hard to ensure that their employees and dependents are offered needed treatment, testing and other medical and financial assistance as our nation continues to cope with COVID-19. This includes expanding benefits, offering health plan flexibility and adjusting eligibility standards so furloughed workers can continue to receive their employer-based health coverage. In cases where a terminated employee is offered coverage through COBRA, many self-funded employers are continuing to make their employer contribution on an after-tax basis to ensure employees can maintain existing health coverage. These employers are fighting to continue to offer health care via self-funded health plans while also battling for the survival of their businesses.

To combat and address COVID-19 related health issues, self-funded employers, no different from many insurance companies, are voluntarily waiving cost-sharing for treatment performed by in-network providers. Similarly, many self-funded employers are waiving cost-sharing for telehealth services related to COVID-19.

As Congress continues to enact legislation responding to the COVID-19 national emergency, the Self-Insurance Institute of America, Inc. (SIIA) would like to put forth the following policy considerations:

First, self-funded employers across the country continue to offer broad and robust benefits to their employees and family members, including proactively covering COVID-19 related treatment with no cost-sharing. However, SIIA and its members are concerned that a treatment mandate that includes coverage of non-FDA approved experimental procedures and trials would unnecessarily increase the cost of care, while increasing the uncertainty of patient outcomes. Thus, while we continue to provide and support treatment coverage considered medically necessary, we believe that parameters should be in place as to what that coverage should entail to ensure the most effective services or care that maintain or improve patient health.

Second, if, in conjunction with a Federal mandate to waive cost-sharing for COVID-19-related treatment, Congress seeks to establish some form of a Federal reinsurance mitigation program, Congress must allow self-funded employers to access the program to the same extent insurance companies will have access to reinsurance dollars.

Third, similar to the relief Congress provided during the 2008 bank crisis, SIIA supports Federal assistance for terminated employees who enroll in COBRA continuation coverage to help defray the cost of the loss of their employer's contribution. While similar financial assistance is currently available to low- and middle-income individuals who purchase an "individual" market plan through an Affordable Care Act (ACA) Exchange, providing COBRA-related financial assistance to self-funded benefit plan participants will allow terminated employees to keep their doctors and maintain their benefits. In many cases, terminated employees will still earn too much income to even be eligible for an ACA Exchange subsidy, which is why a Federal COBRA subsidy is so important. Every dollar spent on COBRA, and extending enrollment in a self-funded plan, goes farther since self-funded plans do more to contain costs, and provide customized benefits. In other words, a greater portion of every dollar contributed to a self-funded plan (via COBRA) goes directly towards the purchase of effective healthcare, compared to premium paid in the fully-insured market, where a smaller percentage of each dollar paid may actually go towards health care.

Fourth, the practice of surprise billing should be prohibited, period. However, if a long-term solution is not politically feasible at this time, surprise bills of any kind should be prohibited for the duration of the COVID-19 crisis. As you are aware, recent guidance from the U.S. Department of Health & Human Services (HHS) for providers receiving federal stimulus funding has prohibited them from surprise billing. Congressional action would help extend this policy to a broader constituency.

Lastly, Congress must increase the transparency of medical prices by, for example, codifying the proposed transparency in coverage requirements set forth in proposed HHS regulations or adopting the transparency provisions included in the *Lowering Health Care Costs Act*. Congress has taken a small step in increasing transparency by requiring out-of-network providers performing COVID-19 tests and related services to post the “cash price” of the services on a public website. However, despite the \$300 per day penalty, SIIA members are increasingly reporting that providers continue to refuse to post cash prices, thereby creating difficulty for reimbursement calculations and payments.

SIIA and its members are committed to maintaining effective and robust health coverage for the millions of Americans who are covered under a self-funded plan. We look forward to continuing to work with policymakers, employer groups, employees and providers as we all collectively weather the COVID-19 storm.

Please do not hesitate to contact me if you have questions, or if members of SIIA can serve as a resource on self-funded plans generally and COVID-19-related issues specifically.

Sincerely,

Michael W. Ferguson  
President & CEO  
Self-Insurance Institute of America, Inc.