

**EMPLOYER / PURCHASER ORGANIZATION RECOMMENDATIONS**  
**FOR COVID RELIEF LEGISLATION**

The Honorable Joseph Biden  
President of the United States  
The White House  
Washington, DC 20500

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Chuck Schumer  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, DC 20510

February 9, 2021

Dear Mr. President, Speaker Pelosi, and Leaders Schumer, McConnell, and McCarthy:

Over the course of 2020, the nation’s employers and health care purchasers worked with Congress to support several pieces of legislation to respond to the COVID-19 pandemic and its impact on the economy and Americans’ everyday lives. Unfortunately, despite significant steps toward mitigating and ending the pandemic – most notably, the development of several effective vaccines – our country is far from the end of this crisis. We applaud President Biden for releasing the *American Rescue Plan*, an aggressive COVID-19 legislative proposal. As employers and health care purchasers, we understand that the economy cannot fully return to normal until the pandemic has passed.

To that end, **the 26 undersigned organizations, representing many of the nation’s leading private and public sector employers, offer our recommendations for forthcoming legislation.** Where applicable, we note priorities included in President Biden’s legislative proposal.

Our recommendations fall into four major priority areas:

- Strengthen Public Health and Prevent Price Gouging on COVID Items and Services
- Provide Affordable Health Care Coverage in the Immediate Term
- Ensure Access to Primary Care
- Protect Workers and Employers During the Pandemic

## **Strengthen Public Health and Stop Price Gouging on COVID Items and Services**

Congress should take immediate steps to protect and strengthen public health during the pandemic.

### ***Access to and Fair Prices for Vaccines, Testing, and Personal Protective Equipment***

We very much appreciate the unprecedented efforts of the Department of Health and Human Services (HHS) and private partners to bring safe and effective COVID-19 vaccines to market in record time. We encourage Congress to take all necessary steps to ensure the vaccines are distributed quickly and equitably. **We support President Biden's proposal to appropriate \$20 billion for a national vaccination strategy.** We look forward to working with federal, state, and local policymakers to assist in the distribution of vaccines to our workforces. To that end, we are asking the Equal Employment Opportunity Commission to provide guidance on how employers can assist in the vaccination of their workforces without violating the Genetic Information Nondiscrimination Act or other applicable federal laws.

While the imminent availability of vaccines is welcome news, in the meantime, our experience as employers has revealed that widespread access to timely and accurate testing is vital. Inaccurate tests and delays in receiving a result pose a significant strain on businesses and employees. **We support the *American Rescue Plan's* proposal to invest \$50 billion to ensure individuals, employers, and public health officials have access to rapid, accurate COVID-19 tests.** Under the right circumstances, such testing can enable some people to return to work even before vaccine doses are widely available.

We are also dismayed that some health care providers and essential workers are reporting that they lack access to adequate PPE.<sup>1</sup> Now one year into the pandemic, this is an unacceptable failure. **We support President Biden's proposal to appropriate \$40 billion toward ensuring adequate supply of personal protective equipment (PPE) and supplies to combat the virus.**

A key part of access to vaccines, testing, and PPE is ensuring that those items are provided at fair prices to consumers and purchasers. Current law requires purchasers to pay literally any price requested by providers for COVID testing, regardless of speed or accuracy. This has led to continued price gouging on the part of some unscrupulous providers.<sup>2</sup> **To mitigate against price gouging and to ensure timely access to affordable testing and vaccines, we offer the following recommendations:**

- COVID-19 relief legislation should set a reasonable cap on COVID test prices. Alternatively, federal agencies could align limitations on testing costs with the current appropriate limitations on vaccine administration costs, noted below.
- Policymakers should ensure that purchasers not be forced to pay for tests that are found to be inaccurate or too slow to be of real value.

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<sup>1</sup> <https://www.ajc.com/news/nation-world/us-faces-another-shortage-of-ppe-including-masks-as-virus-surges/GOZYMR3GTRAWTMYLBZCEVCLNAU/>

<sup>2</sup> <https://www.ahip.org/new-data-covid-19-test-price-gouging-continues/>

- The Administration should continue to recognize the difference between testing that is for surveillance or public health purposes, and testing that is part of an employer's health benefit offering.
- To ensure price gouging does not occur for vaccinations, and in recognition of the taxpayer funding already provided for vaccine research and development, we urge Congress to mandate fair and reasonable prices for vaccine doses and the administration of vaccines – including a prohibition on extraneous “concierge” or other vaccine administration fees currently being charged to “reserve a place in line” for patients seeking protection from COVID.
- We encourage the Administration to maintain guidance provided in interim final rules which stipulates that when a vaccine is provided out of network, the group health plan must pay the provider a reasonable amount, which includes the Medicare rate.

### ***Funding for Public Health Measures***

We recognize the vital role state and local public health departments play in curbing the pandemic, including testing, contact tracing, public health awareness, and the distribution of an eventual vaccine. Previous COVID relief packages have included some funding in this regard. But more is needed, especially to support a nationwide testing, vaccine distribution, and virus mitigation strategy. This funding should be provided contingent upon inclusion of employers as partners in said strategy. **To facilitate a rapid end to the pandemic, we urge Congress to provide as much support as necessary to ensure public health authorities are able to successfully execute their vital public health missions. To receive federal funding, state and local public health entities should be required to produce public reporting of infection and health data, giving employers the tools to protect plan beneficiaries and direct them to safe, effective, high-value providers and facilities. Congress should also direct executive branch agencies to expeditiously distribute the funds that Congress has previously appropriated to address this pressing need.**

### **Provide Affordable Health Care Coverage in the Immediate Term**

The pandemic has placed unprecedented strain on our country's health care payment and delivery systems. As Congress and the administration grapple with this rapidly evolving and highly destructive crisis, we urge policymakers to pass legislation that secures health care coverage.

### ***Ensure sufficient COBRA subsidies to protect patients***

**We support President Biden's proposal to provide COBRA subsidies through September 2021.** Any short-term solution to ensure access to affordable employer-sponsored coverage through COBRA **must include federal subsidies covering at least 90 percent of the cost** for those who have lost their jobs or have been furloughed. This subsidy should last through the duration of the crisis. Enabling people to maintain their current coverage is particularly beneficial for those in the middle of a course of treatment, people needing continued management of chronic conditions, pregnant women, and people

who have been furloughed, but expect to return to work in the near future. This sensible policy also helps Americans who have already met their deductible in the current plan year to avoid being forced to pick a new plan with a new deductible – an especially important policy consideration given the devastating economic impact of COVID-19. Any COBRA subsidy must be sufficient to prevent cost-increases in employer-sponsored plans due to adverse risk. Requiring extended COBRA coverage without a subsidy, or with a subsidy insufficient to address adverse risk, could increase health care costs for Americans with employer-sponsored coverage, and should be avoided.

### *Increase access to telehealth coverage and care*

**Congress should also take immediate action to increase access to telehealth coverage and care for the duration of the crisis.** This should include:

- Increasing the ability for telehealth to be offered as a stand-alone benefit to workers not enrolled in the company's full medical plan
- Eliminating state barriers to telehealth care (such as video-only rules, requirements that the patient already have a relationship with the doctor, or travel to a particular location to access telehealth)
- Allowing licensed providers to see patients via telehealth in other states without needing 50 different state licenses.

Given the long-term promise of telehealth as a care delivery method for many patients and conditions, we also **support making permanent CARES Act provisions allowing High Deductible Health Plans (HDHP) to provide pre-deductible coverage of telehealth visits.**

Telehealth is a particularly useful tool during the pandemic for patients seeking mental and behavioral health care. Today, mental, and behavioral health providers are grappling with surges in pandemic-related mental and behavioral health concerns, in a field where access to affordable and high-quality care was already in short supply<sup>3</sup>

While employers very much support the use of telehealth as a way to expand access to care and reduce costs, we **strongly oppose efforts to mandate that employer-sponsored plans pay for telehealth services at a rate equal to payment for in-person care, or pay for services that are not shown to be safe and effective via telehealth.** Such a mandate harms employers' ability to promote high value, clinically appropriate, telehealth at reasonable costs.

### **Ensure Access to Primary Care**

While some health care providers have fared well during the pandemic, many others have experienced significant financial strain. Primary care providers, in particular, saw a dramatic

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<sup>3</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7387833/>

reduction in revenue during much of the year, and remain in a precarious position. We recommend Congress renew funding for the Provider Relief Fund, with special attention paid to the small and independent primary care practices that are in most need of help. **Congress should provide immediate financial assistance** to ensure primary care practices survive the significant loss of revenue, and can continue to serve their patients. To that end, Congress should:

- Require HHS **Provider Relief Funds to be dedicated to primary care** clinicians/clinical practices that most need financial assistance
- Allow HDHPs to **waive all or part of cost sharing for primary care visits**, at least for the duration of the public health emergency. Further, HDHPs should be allowed to provide pre-deductible coverage of more robust services, including primary care services and chronic condition management at on-site employer clinics.
- Mandate that health care provider organizations certify they **will not engage in mergers and acquisitions** of other provider organizations for 12 months as a condition of receiving COVID relief funds.

### **Protect Workers and Employers During the Pandemic**

As noted above, many Americans will continue to struggle financially until the COVID-19 pandemic is over – likely many months from now. **One critical way to bolster the economy is to make it easier for employers to reopen in-person places of business. To that end, we recommend:**

#### ***Nationwide Liability Protection for Employers that Meet Federal Public Health Guidelines***

For many employers to fully reopen their places of business, they must be protected from liability stemming from COVID-19 claims. Most of our member companies employ people in multiple states. We appreciate the administration's efforts to publish clear and explicit national public health guidelines for places of business. **Those businesses that meet such federal guidelines should then be afforded liability protection across all fifty states.**

### **Conclusion**

Thank you for working to address the devastating health care and economic consequences of the COVID-19 pandemic. The employer and purchaser looks forward to successful passage of legislation that makes workplace and communities safer, strengthens our economy and improves the affordability and accessibility of health insurance and care. To discuss further, please contact the following representatives of the signing organizations: Shawn Gremminger at the Purchaser Business Group on Health, [sgremminger@pbgh.org](mailto:sgremminger@pbgh.org), Ilyse Schuman at the American Benefits Council, [ischuman@abcstaff.org](mailto:ischuman@abcstaff.org), James Gelfand at the ERISA Industry Committee, [jgelfand@eric.org](mailto:jgelfand@eric.org), and Mike Thompson at the National Alliance of Healthcare Purchaser Coalitions, [mthompson@nationalalliancehealth.org](mailto:mthompson@nationalalliancehealth.org).

Sincerely,

**Coordinating Organizations**

American Benefits Council  
The ERISA Industry Committee  
National Alliance of Healthcare Purchaser Coalitions  
Purchaser Business Coalition on Health

**Signing Organizations**

Central Penn Business Group on Health  
Colorado Business Group on Health  
DFW Business Group on Health  
Employers' Advanced Cooperative on Healthcare  
Florida Alliance for Healthcare Value  
Greater Philadelphia Business Coalition on Health  
Healthcare 21 Business Coalition  
Healthcare Purchaser Alliance of Maine  
Houston Business Coalition On Health  
Kentuckiana Health Collaborative  
Lehigh Valley Business Coalition on Healthcare (LVBCH)  
Memphis Business Group on Health  
Midwest Business Group on Health  
Montana Association of Health Care Purchasers  
Nevada Business Group on Health  
North Carolina Business Group on Health  
Pittsburgh Business Group on Health  
Rhode Island Business Group on Health  
Silicon Valley Employers Forum  
St. Louis Area Business Health Coalition  
The Economic Alliance for Michigan  
Wyoming Business Coalition on Health