

To the Honorable Christine Gregoire and Members of the Legislature:

The purpose of this letter is to update you on the status of the Health Insurance Partnership, (HIP) and ask for your help in overcoming several barriers to a successful implementation. In this letter we outline the identified challenges and make recommendations in areas we believe you could fine tune the legislation to allow for successful implementation.

The Health Insurance Partnership Board (the Board) remains committed to the program's successful design and implementation. However, after careful review of the enabling legislation, as well as the current regulatory and market environment, it is clear to us that significant legal, policy, and operational challenges stand in the way of successfully implementing this program. To understand these issues and develop alternatives, we have heard from key stakeholders and agencies, legal and actuarial consultants, and nationally recognized health policy experts. The following analysis and recommendations are based on these discussions and research.

Legislative action addressing these issues will greatly enhance the program's overall chances of successful implementation and sustainability, but even with prompt resolution of these issues in the 2008 Legislative Session, the program faces significant challenges to meet the implementation timeline and accept applications from small employers by September 1, 2008.

Although we doubt the program can be implemented as intended by September 1, 2008, we understand the importance of keeping the state's commitment to helping small employers provide health insurance coverage for their employees. To that end, by September 1, 2008, we intend to:

- Work closely with you to resolve the legal, technical, funding, and operational issues impeding the program's progress;
- Identify the apparently successful vendor for third party administration of the program in order to implement the program as soon as possible;
- Continue outreach activities and gathering stakeholder input to create and build buy-in and promote success; and
- Conduct the longer term studies called for in 1569 and explore alternatives to address access for small business employees and participation incentives for employers.

Challenges

Individual choice:

The law requires that plans offered through the HIP must be currently offered in the small group market. It also restricts the employer and the HIP from limiting an employee's choice of coverage from among all the health plans offered through the HIP. Individual choice is not currently available in the small group market. It is a value-add of the HIP, however, the tradeoff may be adverse risk selection which may increase the

cost of the plans offered in HIP and the small group market. To mitigate these risks, it would be prudent to allow the program to start with limited or no individual choice and then phase in appropriate and manageable choice of plans or carriers.

Subsidy funding:

Subsidies for low-income employees are a critical element of the HIP and are what make the HIP an attractive program for small employers and their eligible employees. Without a meaningful appropriation for subsidies, the HIP will not fulfill its intended purpose.

Funding of administrative expenses:

The legislation provides start up funding, and funds the ongoing operational and administrative expenses of the program solely through a surcharge on health plan premiums. Funding the program solely through this mechanism will add cost to benefit plans now available in the small group market. The lower the initial enrollment, the higher the surcharge on each individual employee must be. This will make premiums unaffordable for individual employees and their families. For the program to be a success, the state must fund administrative expenses beyond start-up.

Potential conflicts with state and federal law:

As written, the enabling legislation may be in conflict with Title 48 RCW and also faces uncertain impact from federal regulation. We are currently consulting with legal counsel to identify areas of potential concern as well as the minimum legislative changes needed to ensure the program's compliance with state and federal law. We are also examining the ERISA implications of the HIP acting as the plan sponsor or administrator for small employer health plans.

Multiple employer participation:

The enabling legislation envisions a program where employees with more than one employer may participate, and multiple employers can each contribute toward the cost of the employee's coverage. This could add considerable value to the program, especially for low-income part-time employees. However, it is unclear how this process could be operationalized. In the HCA's initial discussions with potential administrative service vendors, not one can currently perform this function. Also, if only one employer may enroll an employee in a Section 125 plan, not all participating employers could set up a Section 125 plan for their employees as required by HIP's enabling legislation. As a final note, Massachusetts has had to defer implementation of this requirement due to the difficulties described above.

Program administration:

The Health Care Authority (HCA) intends to contract with a third-party administrator (TPA) for ongoing program administration. At a minimum, we expect a ten-month period from the date a request for proposals (RFP) is released to accepting applications for enrollment. The multiple uncertainties in the program's funding and structure prevent qualified TPAs from providing realistic bids. Releasing an RFP at this time would add no value and incur unnecessary costs. In addition this could create an

unfavorable perception of the program among qualified TPAs. Given this timeline, even if the 2008 Legislative Session provides the necessary clarity, a September 2008 implementation date is highly improbable.

Board recommendations

We recommend the following in order to implement a successful HIP.

1. **Delay the implementation.** Use the current budget authority to allow the Board time to explore implementation alternatives, resolve technical issues, research legal implications and complete the preliminary Board report. Provided we successfully resolve these issues in the 2008 Legislative Session and are able to contract with a qualified TPA that can perform the functions necessary to implement, we will move as quickly as possible to accept applications and offer plans. Our current estimate is that we can take applications on September 1, 2009.
2. **Amend the legislation:**
 - a. Provide a clear statement of legislative priorities for the HIP
 - Improve access vs. individual choice and multiple employer participation.
 - Low income, small employer subsidy program vs. broader and deeper market reforms
 - b. Allow the Board to modify or place appropriate limits on an employee's choice of a health plan during an initial start up period with phased in changes to allow for individual choice.
 - c. Provide state funding for the first five years of administrative costs.
 - d. Provide narrow exemptions from conflicting provisions in Title 48 RCW.
 - e. Remove the requirement that small employers must employ at least one subsidy-eligible employee in order to participate in the HIP.
 - f. Remove the requirement that the HIP is the plan sponsor or administrator (we are awaiting further legal guidance on this issue and the implications of plan sponsorship/administration).
3. **Commitment to future subsidy funding.** Without meaningful subsidies, the HIP is not a viable program. Although we expect implementation to occur beyond the current biennium, it is critical that the Governor and Legislature understand that subsidy funding is necessary and indicate commitment to funding the program long term.

The Board will continue to work towards resolution or further clarity regarding these issues. We respectfully ask for your help in making modifications in statute and budget necessary for successful implementation. We remain committed to fulfilling the vision of improved access for small businesses and their employees. Thank you for your consideration.