



## HOUSE BILL 153 – MEDICATION SWITCHING

### OPPONENT TESTIMONY

#### OHIO HOUSE INSURANCE COMMITTEE

JUNE 16, 2021

Chairman Brinkman, Vice-Chair Lampton, Ranking-Member Miranda, and members of the Ohio House Insurance Committee, my name is Chris Ferruso and I serve as Legislative Director for NFIB Ohio. I am here on behalf of our nearly 22,000 governing members to express concerns related to House Bill 153, legislation that will restrict the utilization of cost-saving mechanisms that may cause health insurance premiums to rise for our members.

By way of background, NFIB members come from all industry sectors in all 88 counties across Ohio. Our typical member employs 15 or fewer and has less than \$2 million in gross receipts. The latest issue of our quadrennial publication *Problems & Priorities*, which asks business owners to rank a list of 75 business issues on most to least impactful on their operations, was released last year. The cost of health insurance remains their top concern, exceeding even locating qualified employees! Our members are concerned with any policies putting upward pressure on premiums which makes providing health insurance, a much-desired benefit, more challenging.

House Bill 153 puts restrictions on the utilization of prior authorization, increasing individual cost-sharing for a drug, moving prescription drugs to a more restrictive tier, and removal of a drug from a health insurers' formulary during a coverage year. These tools are used to address potentially significant fluctuations in healthcare costs. In fact, the Legislative Service Commission (LSC) fiscal note indicates the provisions of House Bill 153 are likely to increase costs to state employee health benefit plans, counties, municipalities, townships, and school districts. The same will likely be true for our members.

Since 2011, the cost of coverage for family plans for small firms has increased by 45 percent.<sup>1</sup> Prescription drugs surely are a contributing factor to this cost increase. As LSC indicates in their fiscal note, "The prohibitions related to prescription drug coverage during a plan year could restrict health plan issuers' ability to control any increase in costs of prescription coverage during a plan year." According to the Kaiser Family Foundation, the large majority of covered workers (89 percent) are in a plan with tiered cost sharing which "generally refer to a health plan placing a drug on a formulary or preferred drug list that classifies drugs into categories that are subject to different cost sharing or management."<sup>2</sup> This bill will limit the ability to address this component of healthcare costs.

House Bill 153 prevents an insurance plan from responding to changes in prescription drug costs during a coverage year but does nothing to address the increased costs for the drugs themselves. While

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<sup>1</sup> <https://www.kff.org/report-section/ehbs-2020-section-1-cost-of-health-insurance/>

<sup>2</sup> <https://www.kff.org/report-section/ehbs-2020-section-9-prescription-drug-benefits/>

suppliers may adjust their prices, there is no opportunity for such adjustments during a plan year by health plans under House Bill 153. However, rest assured, costs eventually will be recouped. Ultimately the purchasers of the fully-insured plans, our members, will recognize the impact upon policy plan renewal.

Any cost increase leaves our members with difficult decisions concerning providing benefits to their employees. In an increasingly competitive global market, the inability to provide meaningful health insurance coverage can harm employee recruitment and retention, putting small businesses at a severe disadvantage. In fact, the May 2021 NFIB Small Business Economic Trends report indicates an all-time high (48 percent) of members are unable to fill job openings.<sup>3</sup> As the market is driving higher compensation, both in salary and benefits, small businesses do not need government mandates putting upward pressure on costs.

Additionally, the bill exempts Ohio Revised Code (ORC) Section 3902.50 of the bill from ORC Section 3901.71. ORC Section 3901.71 precludes any health insurance mandate from becoming law until the Department of Insurance can confirm the applicability to all insurance plans subject to the federal Employee Retirement Income Security Act (ERISA) law. As you know, ERISA plans, self-insured plans, are exempt from state-imposed health insurance mandates. This leaves only the fully-insured plans, individual, and small and large group plans, representing less than 40 percent of the private-sector insurance eligible population, subject to state-imposed mandates including this bill. There already exists a great disparity in health insurance offer rates based upon firm size. 94 percent of firms employing 50 or more workers offer coverage. This drops to 53 percent for those employing 3-49.<sup>4</sup> We implore this committee to find creative solutions to provide access to coverage for all Ohioans if and when a public health need is identified, in lieu of just passing additional mandates on the fully-insured market.

We believe solutions may exist to address the intent of the sponsors of the bill while also retaining some ability to reign in cost increases. I would like to note that House Bill 153 retains a significant change made in the substitute version of House Bill 418 from the last General Assembly. This change permitted requiring the use of a generic or biological product in place of a prescribed drug, when available. We are grateful to the sponsors for keeping this change. Additionally, we recommend the committee amend the bill to allow for the lifting of some of the prohibitions in House Bill 153 when the costs of a drug increase during the plan year.

We appreciate the intent of the sponsors to address the concerns of the proponents with respect to availability, affordability, and continuity of prescription drugs and treatment. However, House Bill 153 does not address the reason plans include cost-saving measures: the fluctuating costs of prescription drugs. This bill simply alters where associated costs will be borne. We know large segments of the private sector will not and cannot be impacted by this bill, thus we believe our members will eventually shoulder a significant portion of associated costs through increased premiums. Once again, we implore this committee and General Assembly, when a public health need arises, to find solutions that will benefit all Ohioans.

Thank you for the opportunity to provide testimony on House Bill 153. I will be happy to try and address any questions.

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<sup>3</sup> <https://www.nfib.com/surveys/small-business-economic-trends/>

<sup>4</sup> <https://www.kff.org/report-section/ehbs-2020-section-2-health-benefits-offer-rates/>