

February 6, 2023

House Human Services Committee HB 1416
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**CHAIRMAN WEISZ AND COMMITTEE MEMBERS:**

My name is Jack McDonald. I'm appearing on behalf of America's Health Insurance Plans or, as it is commonly known, AHIP. AHIP opposes this bill and asks for a no vote.

I call your attention to written testimony submitted by Karlee Tebbutt, AHIP's regional director for North Dakota. It provides an abundance of data to support a no vote.

In addition, your own Employee Benefits Committee, meeting last Friday, voted to give this bill an unfavorable recommendation, based on analyses from Deloitte Consulting, LLP – the international consulting firm contracted by the Legislative Council – and on comments from your own Public Employees Retirement System.

While the intent of this bill may seem like a straightforward approach, these mandates end up having the opposite effect. They actually impede the quality-of-care patients receive, increase costs, and harm market competition.

By forcing health plans to accept any provider who states willingness to meet contract terms, these "any willing provider (AWP)" requirements undermine efforts to provide access to doctors and hospitals with a track record of providing the highest quality and most cost-efficient care to patients.

Requiring health plans to contract with any willing provider reduces their ability to obtain price discounts and conduct effective utilization review due to interference with standard contracting principles. In the past, the Federal Trade Commission (FTC) has expressed concerns about AWP laws because they make it more difficult for health plans to negotiate discounts from providers, which can lead to higher premiums for consumers. The provision of high quality care that is also cost-effective should be everyone's focus.

AWP mandates destroy incentives for improved competition, giving health care providers rights not given to other service providers. For example: schools are not required to hire “any willing teacher;” airlines are not required to hire “any willing pilot;” physician group practices are not required to admit “any willing doctor;” and hospitals are not obliged to accept any willing physician, nurse, or other health care professional. This creates a presumed “right to employment or contract” -- a right that does not exist in any other industry or even elsewhere within the health care sector.

Health plans are motivated to assure that they have enough qualified providers in their networks so patients have adequate access to a broad array of providers. Given the market forces already in place as well as the cost and quality implications to consumers and the adverse effect on market competition of this proposal, we respectfully request a no vote on HB 1416.

Thank you for your time and consideration. I’d be happy to answer any questions.