

March 4, 2022

The Honorable Mariannette J. Miller-Meeks, M.D.
U.S. House of Representatives
1716 Longworth House Office Building
Washington, DC 20515

The Honorable Mike Kelly
U.S. House of Representatives
1707 Longworth House Office Building
Washington, DC 20515

The Honorable H. Morgan Griffith
U.S. House of Representatives
2202 Rayburn House Office Building
Washington, DC 20515

Dear Representatives Miller-Meeks, Kelly, and Griffith:

On behalf of the CEO Members of Business Roundtable who collectively lead companies with more than 20 million employees, we thank you for the opportunity to comment on the Request for Information (RFI) from the Modernization Subcommittee of the Healthy Future Task Force.

Employer-sponsored insurance (ESI) is the backbone of the American health care system, with nearly 155 million or almost 50 percent of Americans obtaining health care coverage through their employer.¹ ESI works because employers are providing affordable and comprehensive benefits that enable employees and their families to tailor benefits to best meet their needs. In addition, employers who sponsor health insurance can be engines of innovation in health care, trying out new ways to deliver quality, affordable health care in the most cost-efficient way.

There is no better example of the innovative flexibility in ESI than the ability of companies to proactively respond and improve health coverage for their employees during the COVID-19 pandemic. According to a recent Kaiser Family Foundation study, nearly 65 percent of large employers made changes to their telemedicine benefits and another 40 percent made changes to their mental health benefits to meet the needs of their employees during the pandemic.² Business Roundtable companies have also worked tirelessly to ensure safe and healthy work environments as more employees return to their places of work.

¹ <https://www.kff.org/report-section/ehbs-2021-summary-of-findings/>

² <https://www.kff.org/health-costs/report/2021-employer-health-benefits-survey/>

While the pandemic is not over, we appreciate the Task Force's efforts to identify flexibilities created under the COVID-19 pandemic that should continue going forward. In particular, our employees have benefited from federal and state governments taking action to remove barriers to telemedicine during the pandemic. HHS allowed plan issuers in the group market to make changes to telemedicine benefits mid-year, ensuring that employers could quickly adjust coverage to address barriers and increase access for employees.³ In addition, CMS suspended enforcement of rules that barred high-deductible health plans from providing pre-deductible coverage for telehealth services. In the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Congress included temporary provisions permitting an HSA-eligible high deductible health plan to cover telehealth and other remote services without a deductible or before the deductible has been met, but this relief expired on December 31, 2021. Congress and the Administration should work with employers to maintain these flexibilities going forward.

In addition, our member companies' experiences with telemedicine responding to COVID-19 have revealed some important lessons that we want to share as part of your RFI. As you consider ways to enhance and expand telemedicine, the following principles should be considered:

- **Do not undermine the Employee Retirement Income Security Act of 1974 (ERISA).** Current ERISA protections must be maintained to protect employers' ability to provide uniform health benefits to employees and their dependents across state lines. The preemption of state employer mandates by ERISA allows employers to best meet the needs of their employees and retirees, while providing predictability in benefits administration. The continuation of a flexible, market-based federal framework that does not include mandated benefits or price controls helps employers innovate and keep employees' health coverage affordable by allowing employers to take advantage of economies of scale and develop best practices. The federal restriction on state-by-state regulation should not be weakened in any way. Any changes to ERISA, including as it relates to telemedicine, should be targeted and should consider feedback from the employer community.
- **Keep telemedicine coverage flexible.** Policymakers should not deviate from a market-based approach to ensure that health coverage advancements continue and that health care meets the needs of the consumer. Mandating benefits increases compliance costs and limits flexibility to test new ways to engage employees, providers and plans into driving greater efficiencies in the marketplace. If health care coverage must be offered in only one way under government rules, innovation and evolution will be stifled.
- **Innovation is successful when the private sector can experiment and lead.** Unlike the relatively slow process of pushing change through regulation, employers have demonstrated the capacity to rapidly adopt innovation in their plan designs, in selecting providers and in adopting new technologies. Technology and new approaches to care

³ <https://www.cms.gov/files/document/faqs-telehealth-covid-19.pdf>

are giving employers greater control over their health care investments than ever before. Employers now have a host of new solutions available to them, from delivering care digitally to using analytics to drive better care for their employees. Employers should be given the opportunity to figure out what works and what doesn't instead of the government deciding what innovations are best.

- **Transparency around cost and quality will help employees.** Employers are leaders in seeking transparency of cost and quality information for their employees to help in the selection of the right choice of care, which in turn produces better outcomes and value and lowers costs. Information on the relative quality of providers and services made provided via telemedicine should be widely available, usable for consumers, and focused on meaningful outcomes.

Business Roundtable appreciates the opportunity to comment on the RFI and stands ready to work with the Task Force to strengthen the employer-sponsored health system.

Sincerely,

A handwritten signature in black ink, appearing to read 'Corey Astill', with a stylized, cursive script.

Corey Astill
Vice President
Business Roundtable