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December 1, 2020

The Honorable Scott Lipps
Chair, Ohio House Health Committee
77 South High Street, 13th Floor
Columbus, OH 43215

Dear Chairman Lipps:

I am writing on behalf of our nearly 22,000 governing members to express concerns related to House Bill 418, legislation pending before the Ohio House Health Committee. House Bill 418 will restrict 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 recently released. The cost of health insurance remains their top concern, exceeding even locating qualified employees! Our members are clearly concerned with any policies putting upward pressure on premiums which makes providing health insurance, a much-desired benefit, more challenging. NFIB members want the best health outcomes for their employees. They understand there must be a balance achieved between appropriate patient care and overall costs.

House Bill 418 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 418 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 2009, the cost of coverage for family plans for small firms has increased by 59 percent.¹ 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 (91 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

¹ <https://www.kff.org/report-section/ehbs-2019-section-1-cost-of-health-insurance/>

management.”² House Bill 418 limits the ability to address this component of healthcare costs. 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.

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, these 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, subject to state-imposed mandates. The inclusion of this language seems to confirm this bill is yet another health insurance mandate. 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. We are aware of an amendment that will be offered to allow a health plan to require the use of a generic equivalent drug during a plan year. We feel this amendment should be adopted. While House Bill 418 prevents an insurance plan from responding to spikes in prescription drug costs during a coverage year, it does nothing to address the increased costs for the drugs themselves. We recommend the committee amend the bill to allow for the lifting of prohibitions when the costs of a drug increases during the coverage year. Absent the addition of this language we recommend the committee not favorably report House Bill 418.

Thank you for the opportunity to provide comments on House Bill 418.

Sincerely,



Christopher J. Ferruso
Ohio Legislative Director

cc: Ohio House Health Committee

² <https://www.kff.org/report-section/ehbs-2019-section-9-prescription-drug-benefits/>