



HOUSE BILL 24 – BIOMARKER TESTING MANDATE

OPPONENT TESTIMONY

OHIO HOUSE INSURANCE COMMITTEE

JUNE 7, 2023

Chairman Lampton, Vice-Chair Barhorst, Ranking-Member Miranda and members of the Ohio House Insurance Committee, my name is Chris Ferruso and I serve as State Director for NFIB in Ohio. I am here on behalf of our 20,000 small business members to express opposition to House Bill 24. This legislation will mandate coverage of biomarker testing for private-sector fully-insured health, public employee benefit, and Medicaid plans. We are concerned the provisions of this bill could result in increased premiums for our members who purchase health insurance for themselves and their employees in the fully-insured marketplace.

I want the committee to know, we appreciate the position of proponents that identifying and addressing medical conditions early can lead to long-term cost savings. Our members want the best health outcomes for their employees. And I am not here to debate the merits of biomarker testing. It is my hope I leave the committee with the understanding of why our organization has historically raised concerns with health insurance mandates.

The cost of health insurance is a major issue for small businesses. The NFIB Research Foundation's last Problems & Priorities has shown the cost of health insurance to be the top concern amongst members, a place this issue has held since 1986! Many of our members struggle to even offer this benefit. According to the Kaiser Family Foundation (KFF), 47 percent (down from 56 in 2021) of companies with 3-49 workers offer health insurance. Contrast that with the employers with 50 or more employees where 93 percent (down from 94 in 2021) are offering this desired benefit.¹ Similar to the data from KFF, a recent survey of our Ohio membership shows 31 percent of our members indicate cost as the reason why they do not offer health insurance. Additionally, for those that are providing, more than one-third indicate it is a "very-costly benefit." Further, over half of respondents indicate an increase in premium between 6-20 percent when they last renewed their policy(s). As such, we are concerned with legislation that may lead to additional costs. The Legislative Service Commission fiscal note on House Bill 24 indicates a likely cost increase to public employee benefit plans and Medicaid. The same will likely hold true for our members as well.

Self-insured ERISA governed plans are exempt from state health insurance mandates. While House Bill 24 does include public employee benefit plans and Medicaid there will be significant gaps in coverage in the private sector. According to Ohio Department of Insurance data the plans they regulate that cover

¹ <https://www.kff.org/report-section/ehbs-2022-section-2-health-benefits-offer-rates/>

large and small business and individuals (fully-insured plans) represents 12 percent of the market.² This means most of the remaining private sector plans are not governed under this bill (multiple employer welfare arrangements (MEWAs) are covered by this bill). To address this inequity, during the 121st General Assembly, Senate Bill 150 was enacted which address application of mandated health benefits. Ohio Revised Code §3901.71 prohibits the application of of mandated health benefits until the Department of Insurance verifies that the manate is applicable to ERISA plans. House Bill 24, like nearly every health insurance mandate simply notwithstanding this section of code. House Bill 24 will not cover most Ohioans that work in the private sector. I think it is important for this committee to know this point. Please do not think that passage of House Bill 24 will provide coverage for all Ohioans, it simply cannot. The result is our members and others that purchase fully-insured products are faced with the associated costs.

It is our understanding that many health plans provide coverage for some biomarker tests, and continue to add additional tests as they go through their evaluation processes. We appreciate the efforts of Rep. White, the proponents, and other interested parties to work on language to remove what was akin to a blanket approval in perpetuity for any new biomarker test. However, we caution this committee to ensure a robust evaluation process will continue to take place for approval of additional tests. While the amendment we saw does require approval for tests to meet at least one of the delineated criteria, the language seems to allow any test that does so to be mandated for coverage. The evaluation by health plans of appropriate treatment and reimbursement at least serves as a mechanism to try and keep premiums down. Limiting this process takes away negotiating leverage which may force coverage of costly new tests without proper evaluation to determine if they are efficacious and what is appropriate reimbursement.

This committee has heard that the coverage in House Bill will have little impact on health insurance premiums. We respectfully request this committee evaluate adding a safeguard to House Bill 24, capping what can be charged for new tests with a medical inflation adjuster to be determined annually, perhaps by the Department of Insurance. This would provide some predictability and certainty when setting rates for subsequent policy years and protect against inflated charges for tests. Another potential safeguard would be a premium credit for plan purchaers for any premium increase attributable in part or whole to the provisions of this bill. This would be determined by reviewing new plan filings. I would be happy to work on language to accomplish this concept.

In conclusion, we urge this committee to thoroughly evaluate any legislation that puts upward pressure on health insurance premiums. These policies ultimately result in difficult decisions by small business owners with respect to providing healthcare coverage. Please do not move forward on legislation that may increase health insurance costs without providing a mechanism to address or offset potential cost increases on small business owners. Absent any protections, we remain opposed to the bill.

Chairman Lampton and members of the Ohio House Insurance Committee thank you for the opportunity to provide testimony on House Bill 24. I am happy to try and address any questions from the committee.

² <https://insurance.ohio.gov/consumers/health/ohio-health-insurance-market>