



## Testimony of The Leukemia & Lymphoma Society

### In opposition to House Bills 101, 245, 768, 923 and 1169

Date January 27, 2022

The Leukemia & Lymphoma Society (LLS) appreciates the opportunity to submit the following testimony to the House Committee on Commerce and Energy in opposition to House Bills 101, 245, 768, 923 and 1169. While we understand the bills sponsors' interest in seeking ways to improve access to affordable health care in the state, we have concerns with the bills that necessitate our opposition.

At LLS, our mission is to cure leukemia, lymphoma, Hodgkin's disease and myeloma, and improve the quality of life of patients and their families. LLS exists to find cures and ensure access to treatments for blood cancer patients.

We agree that it is critical to ensure that affordable health insurance coverage is available to every Virginia consumer who needs it, but we do not feel that a proliferation of multiple employer welfare arrangements (MEWA) as is the goal of House Bills 101 and 245, or association health plans (AHP), which is a specific type of MEWA, as in House Bills 768, 923, and 1169, are the right solution.

These types of plans may be able to offer lower premiums to some consumers in some cases, but affordability of health coverage includes more than just premiums. We are concerned that these bills set a minimum actuarial value, or "AV", of only 60% for these plans. AV is a complex calculation that seeks to project what percentage of payment for an "average" enrollee's covered benefits will be paid by the plan rather than by the enrollee: the lower the AV of a plan, the more an individual will have to pay out of their own pocket to use their coverage.

By setting these plans' AV at 60%, which is roughly the equivalent of an ACA bronze-level plan, patients who are currently free to select higher AV plans on the Health Insurance Marketplace will instead be stuck with coverage that may leave them exposed to higher out of pocket costs. And indeed, during the 2021 open enrollment period, 59% of Virginia consumers enrolling through the Marketplace chose a silver, gold, or platinum plan with an AV higher than 60%, meaning the majority of Virginia residents enrolling through the Marketplace select a richer plan design than the floor set in this bill.<sup>1</sup>

It is important to remember that if employer-based coverage through a MEWA or an AHP is made newly available to individuals who currently enroll through the Marketplace, they will no longer be eligible for any tax credits or subsidies for a Marketplace plan. For example, imagine a blood cancer patient who works for a small employer who does not currently offer coverage. That patient is able to receive advance premium tax credits (APTC) to lower their premiums through the Marketplace and select a silver plan or higher to help manage their out-of-pocket costs. If their employer decides to offer a comparatively barebones MEWA or AHP instead, as designed in these bills, that patient will no longer have the choice of a plan that better meets their needs and be forced instead into coverage that may expose them to serious financial hardship.

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<sup>1</sup> State Health Facts: Marketplace Plan Selections by Metal Level. Kaiser Family Foundation. Available at: <https://www.kff.org/health-reform/state-indicator/marketplace-plan-selections-by-metal-level-2/>



We also have concerns relating to these bills' inadequate fiscal standards for MEWAs and AHPs. These plans have a history of serious financial struggle, often abruptly ceasing operations and terminating coverage when claims exceed their ability to pay.<sup>2</sup> There is a reason that other types of insurance products are required to meet stringent fiscal and solvency standards: the potential harm to enrollees and beneficiaries of a plan abruptly ceasing operations is enormous. This is of particular concern to blood cancer patients, who face the prospect of having their entire treatment plan thrown into expensive, chaotic disarray if an insufficiently capitalized AHP or MEWA suddenly terminates coverage.

With regard to HB 101 and 245, the language of the "benefits consortium" section of these bills includes a mandatory disclosure statement that all MEWAs would have to include with their plan documents. The very first line of that mandatory disclosure is "This coverage is not insurance" and goes on to note that "each member may be responsible for paying an additional sum if the annual premiums present a deficit of funds for the trust." Put plainly: this bill seeks to replace affordable, comprehensive insurance with something that is not insurance, offering significantly diminished coverage with the potential for unexpected costs. That does not meet a standard we consider acceptable for Virginians.

With regard to House Bills 768, 923, and 1169 specific to AHPs, the most immediate issue facing the state is that the federal rules which opened the door to the "pathway II" AHPs envisioned in these bills are currently the subject of ongoing litigation. On February 8<sup>th</sup> of last year, the DC Circuit Court of Appeals issued an order holding the case in abeyance at the request of the Biden Administration.<sup>3</sup> In other words, even if the State passes this bill, it currently cannot be implemented.

We share concerns over the affordability of health coverage, and we are eager to work together to find ways to make sure that patients and consumers can afford the best possible plans for themselves and their families – plans that provide the right coverage at the right time, and where affordability takes into account not only premiums but also out-of-pocket costs. But we do not feel that any of these bills presents a workable solution.

We urge the members of the Committee to oppose these bills.

If you have questions about LLS's position on this matter, or would like further information from LLS, I can be reached at [dave.almeida@lls.org](mailto:dave.almeida@lls.org) or 803-546-6379.

Sincerely,

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Regional Director, Government Affairs  
The Leukemia & Lymphoma Society

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<sup>2</sup> Kofman M, Bangit E, Lucia K. MEWAS: The Threat of Plan Insolvency and Other Challenges. March 2004. Commonwealth Fund. Available at:

[https://www.commonwealthfund.org/sites/default/files/documents/\\_media\\_files\\_publications\\_issue\\_brief\\_2004\\_mar\\_mewas\\_the\\_threat\\_of\\_plan\\_insolvency\\_and\\_other\\_challenges\\_kofman\\_mewas\\_pdf.pdf](https://www.commonwealthfund.org/sites/default/files/documents/_media_files_publications_issue_brief_2004_mar_mewas_the_threat_of_plan_insolvency_and_other_challenges_kofman_mewas_pdf.pdf)

<sup>3</sup> Keith K. ACA Round-Up: Health Plan Filing Deadlines, Affordability Data, Association Health Plan Litigation, And More. February 9 2021. Health Affairs Blog. Available at:

<https://www.healthaffairs.org/doi/10.1377/hblog20210209.830145/full/>