



March 20, 2020

To: State Regulators and Insurance Carriers Impacting Healthcare Programs for Small and Medium Sized Businesses (SMBs) and their Employees

From: Gusto, on behalf of SMBs nationwide

Re: Urgent SMB Relief During the COVID-19 Pandemic

Ricardo Lara
California Insurance Commissioner
California Department of Insurance

Linda Lacewell
New York State Insurance Commissioner
New York Department of Financial Services

Jessica Altman
Pennsylvania Insurance Commissioner
Pennsylvania Insurance Department

Ray Farmer
Director
South Carolina Department of Insurance

Scott White
Commissioner of Insurance
Bureau of Insurance, State Corporation Commission of Virginia

Robert Muriel
Director
Illinois Department of Insurance

Kent Sullivan
Insurance Commissioner
Texas Department of Insurance

David Altmaier
Insurance Commissioner
Florida Office of Insurance Regulation

Office of General Counsel
National Association of Insurance Commissioners (NAIC)



Dear Insurance Regulators:

We applaud the swift action taken by carriers and others in the healthcare community over the last weeks to address the unprecedented COVID-19 pandemic and to stabilize the healthcare system. We particularly appreciate the actions certain states' insurance regulators¹ have taken to instruct carriers to keep customers informed, increase the availability of testing kits, encourage utilization of telemedicine and enforce the coverage of surprise medical bills.

State insurance regulators have a unique role to play in ensuring the most vulnerable American businesses and people continue to stay healthy and have peace of mind during this time. Small businesses are disproportionately affected by the shelter-in-place measures popping up nationwide, and their livelihoods are at stake.

We are writing to you today to urge you to take additional specific, immediate action to support small businesses across the country and the families that are employed by, and depend on them for health insurance coverage. As a platform that represents more than 100,000 small businesses, Gusto believes that this crisis represents an existential threat for businesses across the country and we need your help to ensure the survival of the important small businesses that keep this country running and provide a living for millions of individuals.

Gusto is a people platform that is focused on creating a world where work empowers a better life. Gusto enables SMB owners and managers to easily pay employees and contractors, remit taxes to state and federal authorities, stay compliant with ongoing employment law obligations, *elect health and other benefits coverage*, and keep accurate records of these activities. Gusto provides payroll, human resources, access to health insurance benefits, and financial health benefits for more than one million employees of small businesses across the country. We are uniquely positioned to understand the needs and pain points of small businesses with regards to health insurance and to provide our – and our customers' - perspective on how best to serve them during this challenging time. Our SMBs are the lifeblood of this country: 99.9% of the businesses in this country are small businesses and they employ 59 million people.²

We have the following **suggestions for measures we urge you to consider to help SMBs and their employees survive this crisis:**

- 1. Mandate telemedicine COVID-19 and non-COVID-19 visit support by carriers in your state, and nationwide at this time.**

Many insurance carriers have already accepted the importance of telemedicine and incorporated it into their plans. During a pandemic like this one, this becomes even more important so that individuals can avoid contact with others, if at all possible, and to ease the burden on health care facilities. This could allow employees and their families to still receive care that they may otherwise be too afraid to pursue because of concerns about being infected while they leave

¹ https://www.dfs.ny.gov/industry_guidance/circular_letters/cl2020_03

² <https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-US.pdf>



quarantine or isolation. The legislation signed by the President on 3/18/2020 requires carriers to provide telemedicine related to COVID-19 with no cost-sharing requirements.

Our ask: extend waiver of cost sharing for telemedicine beyond COVID-19 related visits, at least during this public health emergency. This will encourage folks who may not be suffering from COVID-19 but have other health needs to avoid offices, urgent care, and emergency rooms that they do not need to be in, thereby avoiding further exposure to COVID-19 in our small business communities and freeing up more resources to attend in-person to individuals who need it.

2. Provide flexibility to SMBs for delayed payment of their group health insurance.

During this time, SMBs will have tremendous constraints on their cash flow. It will likely take a number of months for them to recover and be back in a better financial position. The government at the federal, state, and local levels are rushing to assist them by providing tax relief, to make loans available to them, and other creative solutions. However, all of this may take weeks or even months for an SMB to navigate. During that period of time, they may be unable to make payments that they normally make on time and in full. Group health insurance is a tremendous cost on our SMBs and we know that they care deeply about their employees and want to make sure that their health insurance is in force during a time like this.

Our ask: assist SMBs by making payment schedules more flexible than they normally are. Consider adding up to an additional 120 days for SMBs to make payments on monthly premiums or (within legal limits) forgiving as much of that payment as possible. Delaying cancellation of SMBs coverage would make a meaningful difference as these businesses work to get back to business as usual and will allow their employees to continue to have access to care.

3. Require insurers in the small group market to accommodate employer requests to change existing insurance contracts to help better serve employees.

Most insurers have terms for participation and eligibility in the small group health insurance contract (e.g. minimum hours worked to maintain eligibility, employee contribution requirements, etc). During this time it is difficult for many employers and employees to meet those requirements because of business closure, reduced hours, and reduced wages which often present challenges to the employees' ability to have their contribution of premiums deducted as intended by the contract. This can result in the employees losing access to health insurance.

Some SMB owners are willing to step up in the face of reduced wages to still keep their employees' health insurance active despite decreased average hours worked and by contributing a higher percentage or 100% of the employees' premiums. Currently 100% employer paid premiums would mean a requirement to make the plan non-contributory for most insurers, which means every employee would have to be enrolled despite waivers. Additionally, many contracts require employees who drop below full-time based on hours to be removed from the plan.

Our ask: allow SMB owners to change terms of their contract during this emergency, especially related to hours required for eligibility as well as contribution amounts required from employees,



to better provide for the needs of their small businesses and the families who have access to healthcare through them.

We propose these measures as specific, immediate action that can support SMBs as the backbone of our economy during this time, and support the millions of Americans that rely on SMB health insurance coverage during this unprecedented public health crisis. While this letter is meant to urge actions that will immediately relieve SMBs on the healthcare front, we are equally committed to additional measures by other regulators that will improve financial relief and loan opportunities for SMBs during this time, and relief for payroll and other leave costs that SMBs may incur due to widespread outages of employees' abilities to work. These requests are how the insurance community can contribute to those goals.

Coordination among the regulators and the small business community is key during this time. We stand ready as a resource specifically aligned with SMBs that can advise on these matters during this difficult time, and we appreciate your partnership and consideration of our recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua Reeves".

Joshua Reeves
Chief Executive Officer