June 23, 2017

The Honorable Robert DeLeo
Speaker of the House
Massachusetts State House, Room 356
Boston, MA 02133

The Honorable Stanley Rosenberg
Senate President
Massachusetts State House, Room 332
Boston, MA 02133

The Honorable Brian Dempsey
Chair, House Committee on Ways and Means
Massachusetts State House, Room 243
Boston, MA 02133

The Honorable Karen Spilka
Chair, Senate Committee on Ways and Means
Massachusetts State House, Room 212
Boston, MA 02133

Re: Proposed MassHealth Reform Package

Dear Senate President Rosenberg, Speaker DeLeo, Chairwoman Spilka and Chairman Dempsey,

On behalf of the Affordable Care Today (ACT!!) Coalition, thank you for your commitment to maintaining affordable health coverage for Massachusetts residents throughout the FY2018 budget process. The ACT!! Coalition was formed to advocate for comprehensive health reform in the Commonwealth, and continues to advance the goals of affordable health coverage for Massachusetts residents with representation from consumer, provider, health and health care advocacy, labor, legal services, community and faith-based organizations.

We understand the fiscal challenges facing our Commonwealth and the need to manage costs in the MassHealth program. We are eager to work with the Administration and the Legislature to ensure that any changes in MassHealth do not adversely impact members. The budget proposals put forth thus far reflect the Commonwealth's commitment to not retreat from effective government policies that promote the health of all Massachusetts residents, and we should collectively be proud of the many provisions that will benefit health care consumers.

We write to you today with strong concerns about the MassHealth reform package submitted by the Baker Administration for consideration by the Legislature's FY2018 budget Conference Committee. While we understand the significant fiscal challenges the Commonwealth currently faces, and the intent on the part of the Administration to keep people covered, many of the proposals included in this package will decrease access to affordable coverage for low-income consumers. In addition, these far-reaching policy changes will cause disruption for low-income residents when what we need in the health insurance market now is stability. We outline our concerns and recommendations below, and include proposed legislative amendments in the attached document. We would greatly appreciate the opportunity to discuss these concerns and recommendations in more detail at your earliest convenience.

Precluding non-disabled adults with access to ESI from being eligible for MassHealth

Section 40 of the proposed legislation bars non-disabled adults from enrolling in MassHealth if they are offered affordable employer-sponsored insurance (ESI). We understand that this is meant to address the issue of "crowd-out" from ESI to public coverage. However, we are concerned about the ability of low-income consumers to afford their ESI without further assistance from MassHealth. The Administration proposes to measure affordability of ESI using the federal Advanced Premium Tax Credit (APTC) rules, which is designed for populations with incomes over Medicaid limits. Under this rule, an employer's plan is deemed

affordable if the premium is less than 9.66% of family income, without taking into consideration other costs such as deductibles, co-insurance, and copays. However, according to MassHealth, low-income workers who are offered unaffordable ESI (premium equal to 9.67% of income or more) would still be able to enroll in MassHealth Premium Assistance, where MassHealth not only helps with the cost of the employee's share of the premium but also serves as a secondary payer, providing coverage for co-pays, deductibles and co-insurance for care from providers who accept MassHealth. This proposal creates a clear inequity between similarly situated low-income populations.

We *oppose* creating an eligibility "gate" for MassHealth-eligible workers with access to ESI. There is no precedent for this type of restriction in Medicaid; access to other health insurance has never been a bar to MassHealth coverage. Rather, MassHealth acts as a secondary or tertiary payer when other coverage is available, which protects low-income members from unaffordable medical bills. Section 40 of the proposed legislation would unravel many of the successes of the MassHealth program since the Commonwealth's original 1115 waiver in 1996, including the commitment to ensuring low-income individuals and families are not burdened with unaffordable cost-sharing. Indeed, since 1997, parents with incomes up to 133% of the federal poverty level (FPL) have been eligible for MassHealth Standard as well as a form of MassHealth – Transitional Medical Assistance (TMA) – that keeps them covered for a period of time when their incomes fluctuate. The proposed ESI affordability test also does not consider cost-sharing, so even if a low-income worker could manage the premiums, he or she would face higher cost-sharing in the form of deductibles, co-insurance and/or copays when seeking care.

Instead, we support increased participation in the MassHealth Premium Assistance program as the best way to leverage employer contributions and reduce state spending while also ensuring that low-income workers have affordable and comprehensive coverage. Through programs like Premium Assistance, MassHealth has remained an important support for low-income families striving to work themselves out of poverty. We understand from MassHealth that most of the savings in their proposal are derived from better employer reporting through the Health Insurance Responsibility Disclosure (HIRD) form and increased Premium Assistance, not the ESI lock out. **Therefore, we strongly recommend not implementing the ESI lock out, and rather make changes to Section 40 of the proposed legislation that would allow all adults with access to ESI who are otherwise eligible for MassHealth to enroll in ESI and the MassHealth Premium Assistance program.**

We also understand that the ESI "gate" provision may be tied to the provisions requiring employers to make an additional contribution if their employees enroll in public coverage. However, we believe this problem can be easily remedied by not including in the assessment calculation any employees with an offer of ESI for whom premiums constitute less than 9.66% of income, and who then receive MassHealth Premium Assistance. There may be additional innovative ways to address the movement of people from ESI to public coverage without putting undue costs onto consumers, and we are eager to work with the Legislature and Administration to explore possible policy solutions.

Cutting MassHealth eligibility for non-disabled adults with income between 100% to 133% FPL

Section 58 of the proposed legislation transitions non-disabled adults from MassHealth to ConnectorCare as of January 1, 2019. Currently, this population includes 100,000 parents in MassHealth Standard and 40,000 childless adults in MassHealth CarePlus. If implemented, this policy change would result in low-income residents losing benefits – such as dental coverage – and paying higher costs in terms of premiums and copays. As noted above, parents with incomes up to 133% FPL have been categorically eligible for MassHealth since 1997. Of special note, currently MassHealth CarePlus members can be upgraded to MassHealth Standard based on high medical need, or "medical frailty." In addition to losing dental coverage, MassHealth Standard members who transition to ConnectorCare would lose coverage for long-term services and supports (LTSS). We must ensure that people who need LTSS retain access to these services before making any eligibility changes.

The MassHealth eligibility change for non-disabled adults between 100-133% FPL is slated for implementation in 2019. As such, we believe this change warrants more discussion and analysis about the impact on members. With uncertainty around federal decisions on continuation of APTCs and cost-sharing reductions (CSRs), the ConnectorCare program itself is at risk. The American Health Care Act (AHCA) passed by the U.S. House would eliminate cost-sharing subsidies and change premium tax credits to be based on age rather than need – as would the bill released by the U.S. Senate this week. A recent study released by the Urban Institute in collaboration with the Blue Cross Blue Shield of Massachusetts Foundation estimates that should AHCA become law, the ConnectorCare program would end.[1] This translates into unaffordable premiums and cost-sharing for low and middle income residents, and people dropping coverage. With the impending federal changes, it is also not clear whether the added state subsidies that underlie the ConnectorCare program will continue to be eligible for federal reimbursement in the future.

We *oppose* moving MassHealth members from MassHealth to ConnectorCare and strongly recommend striking Section 58 from the proposed legislation. As an alternative, Section 58 should at the very least be amended to require a study on the proposed change's impact on MassHealth members, as suggested in the attached language.

Granting EOHHS broad authority to restructure MassHealth "optional" services

Section 56 of the proposed legislation gives EOHHS unilateral authority to manage MassHealth by restructuring benefits that are optional under federal law. Optional benefits include key services such as prescription drugs, dental, vision, and home and community based supports, among others.[2] Unlike many of the other proposals included in this legislation, Section 56 could impact children and families, people with disabilities, and seniors, in addition to low-income parents and childless adults. In addition to the human impact, significant changes to health care and supportive services will result in the loss of millions of dollars in federal revenue that will have implications for MassHealth members and providers of their health care and supportive services. **We *oppose* Section 56 of the proposed legislation and urge the Legislature to not include it in any legislation.**

Implementing a limited specialty pharmacy network and closed formulary

Section 55 of the proposed legislation gives EOHHS the authority to restructure MassHealth pharmacy benefits. We fully understand the need to manage prescription drug costs, but we fear that more limited specialty pharmacy networks and a closed formulary in the MassHealth Primary Care Clinician (PCC) plan and fee-for-service would impose unnecessary barriers to needed medications. Unlike many of the other proposed changes, this change applies to all MassHealth members enrolled in the PCC plan and fee-for-service including people with disabilities, children, and seniors. It is extremely important that the legislation includes consumer protections to ensure continued access to medications needed to maintain health and prevent disease. Therefore, **we recommend adding safeguards to Section 55 of the proposed legislation to ensure access to needed medications, as detailed in the attachment.**

Eliminating redundant MassHealth Limited and ConnectorCare coverage

MassHealth Limited is the state's version of federally-required emergency Medicaid. Lawfully present immigrant adults who have incomes below the poverty level, but who are not eligible for MassHealth, are eligible for ConnectorCare. Currently, these individuals are covered by both ConnectorCare and MassHealth Limited. Section 57 of the proposed legislation would end MassHealth Limited coverage for ConnectorCare-eligible individuals. We understand the purpose of this change and believe it will help mitigate confusion for individuals currently eligible for both coverage types. **We propose adding language to Section 57 to**

[1] Available at: https://bluecrossmafoundation.org/publication/modeling-impacts-american-health-care-act-massachusetts.

[2] See https://www.medicaid.gov/medicaid/benefits/list-of-benefits/index.html for a list of Medicaid mandatory and optional services.

clarify that this population would maintain access to emergency care through MassHealth Limited until ConnectorCare coverage begins.

Restoring employer responsibility in health care

Section 49 of the proposed legislation uses the current Employer Medical Assistance Contribution (EMAC) to create an additional temporary employer contribution towards the cost of public coverage for employed individuals. We support the concept of shared responsibility that was the underpinning of Chapter 58, including an employer assessment. While we have taken no position on the specific features of the employer assessment, we do want to ensure that other safety net programs, such as the unemployment insurance system, remain strong for those who need them.

The ACT!! Coalition appreciates the opportunity to provide input on the MassHealth reform package recently put before the Legislature's FY 2018 Conference Committee. The proposed changes greatly impact low-income Massachusetts residents, and as such, warrant further analysis and discussion. Should you have any questions, please contact me at (617) 275-2977 or scurry@hcfama.org or Brian Rosman, Director of Policy and Government Relations at Health Care For All, at (617) 275-2920 or brosman@hcfama.org.

Thank you for your time and consideration.

Sincerely,

Suzanne Curry
Associate Director, Policy & Government Relations, Health Care For All
Director, ACT!! Coalition

Cc: Senator Sal DiDomenico, Vice Chair, Senate Committee on Ways and Means
Representative Stephen Kulik, Vice Chair, House Committee on Ways and Means
Senator Viriato deMacedo, Ranking Minority, Senate Committee on Ways and Means
Representative Todd Smola, Ranking Minority, House Committee on Ways and Means
Senator James Welch, Chairman, Joint Committee on Health Care Financing
Representative Jeffrey Sánchez, Chairman, Joint Committee on Health Care Financing
Senator Jason Lewis, Chairman, Joint Committee on Labor and Workforce Development
Representative Paul Brodeur, Chairman, Joint Committee on Labor and Workforce Development

Attachment: ACT!! Coalition Proposed Amendments to MassHealth Reform Legislation

Precluding non-disabled adults with access to ESI from being eligible for MassHealth

SECTION 40. Section 9A of chapter 118E of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(17) The division may, consistent with the terms and conditions of a demonstration project, ~~deny or terminate MassHealth eligibility for~~ require non-disabled ~~persons~~ adults who would otherwise qualify for a program of medical benefits under this chapter ~~who~~ and have access to ~~affordable~~ employer sponsored health insurance to enroll in said insurance provided that the coverage is cost effective and that the individual is provided premium assistance and secondary coverage such that benefits are no less affordable or comprehensive than benefits available to non-disabled adults without access to employer sponsored health insurance, and provided that adults who qualify as parents or caretaker relatives with earnings from employment shall remain eligible for 12 months of transitional medical assistance. The division shall promulgate regulations to implement this clause. The department of unemployment assistance and the department of revenue shall share wage information, employer information, and other information as necessary to implement this subsection, provided, however, that such information may be shared only in accordance with a written agreement that is consistent with the provisions of 20 C.F.R. Pt 603.

Implementing a limited specialty pharmacy network and closed formulary

SECTION 55. Notwithstanding section 53 of chapter 118E of the General Laws or any general or special law to the contrary, the executive office of health and human services, subject to federal approval may restructure pharmacy benefits, provided that in any closed or otherwise limited formulary, there shall be included an exception process to obtain a medically necessary non-formulary drug, when the formulary drug would not be as effective for the member as the non-formulary drug, would have adverse effects on the member, or both. At least 30 days before implementing benefit changes under this section, the secretary shall file a report with the house and senate committees on ways and means detailing the proposed changes and the anticipated fiscal impact of those changes.

Granting EOHHS broad authority to restructure MassHealth "optional" services.

~~SECTION 56. Notwithstanding section 53 of chapter 118E of the General Laws or any general or special law to the contrary, the executive office of health and human services may restructure or eliminate covered services that are optional benefits under the Medicaid program to generate savings. At least 30 days before implementing benefit changes under this section, the secretary shall file a report with the house and senate committees on ways and means detailing the proposed changes and the anticipated fiscal impact of those changes.~~

MassHealth Limited & ConnectorCare

Option A

SECTION 57. Notwithstanding sections 9 and 16D of chapter 118E of the General Laws, subject to federal approval under the Commonwealth's 1115 Demonstration, individuals otherwise dually eligible for MassHealth Limited and ConnectorCare once enrolled in ConnectorCare shall no longer be eligible for MassHealth Limited ~~shall be eligible for subsidized insurance through the commonwealth health insurance connector authority only~~.

Option B

SECTION 57. Notwithstanding sections 9 and 16D of chapter 118E of the General Laws, subject to federal approval under the Commonwealth's 1115 Demonstration, individuals otherwise dually eligible for MassHealth Limited and ConnectorCare shall be eligible for ConnectorCare but MassHealth Limited shall be

terminated when the time to effectuate ConnectorCare enrollment ends ~~subsidized insurance through the commonwealth health insurance connector authority only~~.

Cutting MassHealth eligibility for non-disabled adults with income between 100% to 133% FPL

Option A

~~SECTION 58. Notwithstanding any general or special law to the contrary, subject to federal approval under the Commonwealth's 1115 Demonstration, non-disabled adults age 21 through 64 with income above 100% of the federal poverty level, excluding pregnant women and individuals with HIV-AIDS or breast or cervical cancer, shall be determined eligible for and enrolled in subsidized insurance through the Connector only. At least 30 days before implementing eligibility changes under this section, the secretary shall file a report with the house and senate committees on ways and means detailing the proposed changes and the anticipated fiscal impact of those changes~~.

Option B

SECTION 58. ~~Notwithstanding any general or special law to the contrary, subject to federal approval under the Commonwealth's 1115 Demonstration, non-disabled adults age 21 through 64 with income above 100% of the federal poverty level, excluding pregnant women and individuals with HIV-AIDS or breast or cervical cancer, shall be determined eligible for and enrolled in subsidized insurance through the Connector only. At least 30 days before implementing eligibility changes under this section,~~ By [date], the secretary shall file a report with the house and senate committees on ways and means detailing the feasibility of amending the Commonwealth's 1115 to provide that non-disabled adults age 21 through 64 with income above 100% of the federal poverty level, excluding pregnant women and individuals with HIV-AIDS or breast or cervical cancer, be determined eligible for and enrolled in subsidized insurance through the Connector only, said report shall address the differences in eligibility, enrollment, scope of benefits premiums and cost sharing and delivery system between MassHealth and subsidized insurance through the Connector, the characteristics of the population over 100% of the poverty level and the likely effects of this transition on insurance coverage and access to care as well as the effects on the stability of health plans, federal support for ConnectorCare compared to federal matching funds for MassHealth as well as any expected reduction in state spending ~~proposed changes and the anticipated fiscal impact of those changes~~.

ACT!! Coalition Member Organizations

AARP Massachusetts
Action for Boston Community Development, Inc.
AIDS Action Committee
American Cancer Society Cancer Action Network
American Heart Association / American Stroke Association
Boston Center for Independent Living
Boston Children's Hospital
Boston Medical Center
Boston Public Health Commission
Cambridge Health Alliance
Children's Health Access Coalition
Coalition for Social Justice
Committee of Interns and Residents/SEIU Healthcare
Community Catalyst
Community Servings
Disability Policy Consortium
Episcopal City Mission
Families USA
Greater Boston Interfaith Organization
Greater Boston Legal Services
Health Care For All
Healthcare for Artists
Health Law Advocates
Home Care Alliance of Massachusetts
Joint Committee for Children's Health Care in Everett
JRI Health
Massachusetts Academy of Family Physicians
Massachusetts Association of Community Health Workers
Massachusetts Breast Cancer Coalition
Massachusetts Building Trades Council
Massachusetts Business Leaders for Quality, Affordable Health Care
Massachusetts Chapter of the American Academy of Pediatrics
Massachusetts College of Emergency Physicians
Massachusetts Communities Action Network
Massachusetts Council of Community Hospitals
Massachusetts Immigrant and Refugee Advocacy (MIRA) Coalition
Massachusetts Health Council
Massachusetts Health & Hospital Association
Massachusetts Law Reform Institute
Massachusetts League of Community Health Centers
Massachusetts Medical Society
Massachusetts Organization for Addiction Recovery
Massachusetts NOW
Massachusetts Public Health Association
NARAL Pro-Choice Massachusetts
National Association of Social Workers – Massachusetts Chapter
Neighbor to Neighbor Massachusetts
Partners HealthCare
Public Policy Institute
32BJ SEIU New England 615
1199 SEIU United Healthcare Workers East
Tobacco Free Mass
Treatment Access Expansion Project
UMass Memorial Health Care