



**Testimony of Michael J. Widmer
President, Massachusetts Taxpayers Foundation**

Employer Fair Share Contribution Hearing
September 5, 2008

Good morning, my name is Michael Widmer, President of the Massachusetts Taxpayers Foundation. I am here to testify in opposition to the proposed changes in the regulation regarding the employer fair share contribution under health reform.

The revisions to the fair share formula are monumentally shortsighted.

They are shortsighted because they ignore the enormous contributions of employers to the success of health reform, and they are shortsighted because they threaten the future of that reform. And let me be clear: this is the first time since health reform was enacted that anyone has tried, unilaterally, to upset the balance of shared responsibility that has held the law together. In other words, this is not a minor regulatory change; this is a really big deal.

As I travel around the country, leaders in other states are in awe of the leadership shown by the employer community in Massachusetts, both in the passage and implementation of health reform. They understand that reform on this scale is not possible, and certainly not sustainable, without broad employer leadership and support.

Yet, in Massachusetts the administration says employers need to do more to do their fair share. The administration proposes to make an unwarranted and unnecessary regulatory change that will punish many employers who have been acting in good faith to help make reform work.

Let me highlight the record of employer contributions to health reform and let any independent observer decide if employer support is falling short, as the administration contends.

The first point to emphasize is that the entire health reform law was built off the very high level of employer coverage in Massachusetts. Setting a goal of universal coverage would have been impossible without this high base of employer support.

Now, because of the individual mandate and the high percentage of employers that offer coverage, many employees who had previously turned down an employer offer of health insurance have accepted it.

The results have been stunning, way beyond even the most optimistic predictions. According to recent data from the Division of Health Care Finance and Policy, enrollment in employer-sponsored health insurance has increased by 159,000 since June 30, 2006, the beginning of health care reform. That is more than one-third of the 439,000 individuals who have been added to the rolls under health reform.

To put that in perspective, 159,000 is only slightly less than the 174,000 individuals who are enrolled in Commonwealth Care, the taxpayer-supported program of subsidized insurance. So while these proposed regulations focus on funding a supposed shortfall in Commonwealth Care, employers across the state have quietly added an equal number of individuals to their health plans at a cost approaching \$1 billion. And let me emphasize, as the Urban Institute has confirmed, many of the 159,000 are low-income adults who otherwise would be eligible for taxpayer-supported subsidies if they did not have an employer offer.

So where do we stand today? With the exception of Hawaii, Massachusetts is the state with the highest percentage of employers – more than 90 percent of employers covered by this law – offering health insurance to their employees, at a rate that is 22 percent higher than the national average.

More than 80 percent of Massachusetts residents under the age of 65 are covered through private health insurance – almost four and a half million people. Compare that to 777,000 or 14 percent covered by Medicaid and 174,000 or 3 percent through Commonwealth Care.

But the administration and advocates argue that's not enough – Massachusetts employers may be leading the nation but they're not doing their fair share of paying for the public costs of health reform.

So let's look at the record. For the past several months the administration has contended that there is a shortfall in funding for health reform, a claim that is questionable given the flat enrollment in Commonwealth Care since March.

But for sake of argument, let's say there is a small shortfall when one includes the Medicaid program. Now putting aside the fact that Medicaid has always been seen as a broad societal obligation, employers are in fact paying an additional \$100 million to support Medicaid and other health care spending in fiscal 2009 – that is one-third of the recently enacted \$300 million tax increase on corporations, which reflects the fact that approximately one-third of state spending is for health care.

But, the administration argues, that doesn't count either. We're looking for something else.

Which leads to the administration's recent proposal approved by the Legislature to transfer \$35 million from the state's Medical Security Trust Fund, which is funded entirely by employers through an assessment added to their unemployment insurance tax bills.

Whoops, the administration says, that doesn't count either.

So all this leads to the obvious conclusion that these proposed changes in fair share are not about money at all. Rather it's a calculated decision by the administration to change the balance of

responsibilities in the carefully crafted compromise that broke the long logjam and led to passage of this landmark legislation.

As one of the architects of that compromise, I want to emphasize that the fair share provisions of Chapter 58 were explicitly intended to equalize the employer burden of paying for uncompensated care. The assessment's connection to the costs of free care is specifically laid out in the calculation methodology in the legislation.

This background is important because it establishes a clear context for the Division's determination of what constitutes a "fair and reasonable" contribution by employers for purposes of the assessment. In short, the "fair and reasonable" standard must be seen in the context of equalizing the burden of free care, not imposing a mandate on employers to provide a minimum level of health coverage.

The assessment was not meant to be:

- An employer mandate to provide health care;
- A requirement on an individual employer to make a minimum contribution;
- A dictate on employers as to whom they should cover;
- A license for the state to set standards of coverage.

The advocates have never accepted the reality of this compromise and have engaged in serious revisionist history ever since the law was passed. This administration, through these proposed changes, has accepted the revisionist argument.

These changes undermine the balance of shared responsibility that led to passage of health care reform in the first place, and they betray a serious misunderstanding about the remarkable role of employers in the success of health reform.

It is sad that the administration and advocates do not recognize and celebrate the leadership of the employer community. That shortsightedness carries grave risks for the future of this noble collective effort.