



9401 Indian Creek Parkway
Suite 1300
Overland Park, Kansas 66210

February 6, 2017

The Honorable Carolyn McGinn
Senate Committee on Ways and Means

Re: Opposition to Senate Bill 94

Chair McGinn and members of the Committee on Ways and Means, thank you for allowing Aetna the opportunity to provide testimony regarding Senate Bill 94 (SB94).

Position

Aetna opposes the proposed increase in the HMO privilege fee from its current rate of 3.31% to 5.77%, as well as the timing of such change making it retroactive back to January 1, 2017. Although Aetna understands the revenue challenges that Kansas continues to face, we do not believe that isolated tax increases such as this are in the best interest to the tens of thousands of Kansans, and Kansas employers, who rely on HMO policies to meet their health benefit needs.

Concerns

- ***This change does not only affect Kansas. Kansas domestic carriers also face increased retaliatory tax rates in other states.*** Coventry Health Care of Kansas, Inc. (CHC-KS), an Aetna company, has been proudly domiciled here in Kansas, but also sells HMO products in other states, such as Missouri and Oklahoma. Because the Kansas privilege fee, or premium tax, is higher than the tax charged in these states, retaliatory tax rules would actually require CHC-KS to pay the higher tax rate in all states it operates. This creates a significant, negative competitive environment for CHC-KS in multiple states, not just Kansas, and further discourages any HMO insurance company from wanting to establish their roots here in Kansas.
- ***There was previous agreement that the HMO privilege fee would actually decrease to 2%.*** Through negotiation and mutual agreement, the legislature and the insurance industry agreed in 2015 to increase the HMO privilege fee, or premium tax, to 3.31%, but with the understanding that the rate would decrease to 2% on January 1, 2018. This bill goes against that agreement and understanding, and has a multi-year impact on HMOs and the tens of thousands of Kansans, and Kansas employers, who rely on HMO policies to meet their health care needs.
- ***A retroactive tax increase is neither fair nor appropriate for an industry that has well served and brought value to the citizens of Kansas for many years.*** Historically, HMO policies have been the most affordable health insurance plans for Kansas consumers and employers. However, retroactive tax increases, such as the increase in 2015 to the HMO

privilege fee and the retroactive increase proposed in SB94, actually have a compounding effect on premiums as the increased tax is essentially doubled in the next policy year.

- Kansas already has a surplus from the increase in the HMO privilege fee to 3.31%.*** When the HMO privilege fee was increased in 2015 to 3.31%, the administration advised that the additional dollars were needed to cover the cost of the Health Insurance Fee (HIF) imposed by the Affordable Care Act on the KanCare managed care plans. The HIF averages 3% of total premiums and was estimated to cost the state approximately \$83M in 2015. However, through the Consolidated Appropriations Act of 2016 Congress imposed a one-year moratorium on the collection of the HIF due in 2017 and President Trump’s recent Executive Order would continue this action. Additionally, virtually every ACA discussion in Congress includes a repeal of this tax. Therefore, the State of Kansas actually has an annual savings of at least \$83M this year, far more than enough to cover the cost of reinstating the 4% provider rate cut which was estimated by the Governor to save the state only \$38.2M.
- Another increase in the HMO privilege fee is the wrong tax policy for Kansas. This bill creates an unfair, egregious and discriminatory tax policy on HMO benefit plans.*** Insurance carriers are normally taxed either through an income tax or a premium tax. Kansas, like several states, chose a privilege fee or premium tax approach in lieu of HMOs paying income taxes. Premium taxes, which are imposed on all premium dollars collected, average only 2% across all states. The table below, which assumes an average 6% profit margin (very conservative estimate), reflects the effective income tax rate based on premium taxes at different levels. **An HMO privilege fee or premium tax rate of 5.77% is actually equivalent to an income tax rate of 96% for HMO plans!**

HMO Premium Basis	A		\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000
HMO Privilege Fee Rate	B		1%	2%	3.31%	5.77%
Privilege Fee Due	C	A x B	\$ 10,000	\$ 20,000	\$ 33,100	\$ 57,700
Average Profit Margin	D		6%	6%	6%	6%
Average Income / Margin	E	A x D	\$ 60,000	\$ 60,000	\$ 60,000	\$ 60,000
Privilege Fee Paid	F	same as C	\$ 10,000	\$ 20,000	\$ 33,100	\$ 57,700
Effective Income Tax Rate		F/E	17%	33%	55%	96%

In closing, Aetna respectfully urges the Committee to oppose SB94 and to give strong consideration to the following facts as the bill is debated: 1) this change not only affects Kansas, as a Kansas HMO such as Coventry Health Care of Kansas would also face increased retaliatory tax rates in other states; 2) this increase is contrary to the understanding that HMOs and the legislature came to just two years ago related to the privilege fee; 3) Kansas already has extra dollars within the KanCare program due to the waiver of the Health Insurance Fee imposed by Congress and President Trump through his recent Executive Order; and 4) another increase in the HMO privilege fee is the wrong tax policy for Kansas and the tens of thousands of Kansas

consumers and employers who continue to rely on HMO policies for their affordable health benefit needs.

Continuing to impose these isolated tax increases only continues to treat the symptoms of Kansas' revenue challenges, and doesn't truly address the underlying core issues. Policies such as this proposed by SB94 only create long-term economic harm to Kansas and don't truly help get us back on the right path to future prosperity. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Keith L. Wisdom". The signature is written in a cursive style with a large, stylized initial "K".

Keith Wisdom
Market President