



April, 17, 2024

The Honorable Ronald Mariano
State House
Boston, Ma 02133

The Honorable Karen Spilka
State House
Boston, MA 02133

The Honorable Aaron Michlewitz
State House
Boston, Ma 02133

The Honorable Michael Rodrigues
State House
Boston, MA 02133

The Honorable John Lawn
State House
Boston, MA 02133

The Honorable Cindy Friedman
State House
Boston, MA 02133

Dear Leaders of the Great and General Court:

We would like to draw your attention to an important issue as the General Court tackles prescription drug reform and the rising cost of drugs in the Commonwealth. As you know, drug manufacturers and independent pharmacists are seeking to deflect legislative attention and increase profits by attacking pharmacy benefit managers (PBMs). Through those efforts, they've proposed several reforms that cut at the heart of federal preemption of self-funded health plans under the Employee Retirement Income Security Act of 1974 ("ERISA").

While we agree with the need to bring real transparency to the drug supply chain, interests have sought not only to regulate PBMs themselves, but to regulate our health plans which provide prescription drug benefits, including employee benefit plans governed by the ERISA. As you also know, ERISA includes a broad preemption provision intended to permit the uniform administration of these employee benefit plans nationwide. Simply, our unions and our plans deserve legal continuity nationwide.

Nevertheless, interests have proposed laws that impede the national uniform plan administration by either mandating or forbidding particular elements of plan structure or benefit design. It is important to note that our plans are not required to enter into agreements containing these practices – we choose to do so for the benefit of our members based on cost and service. In a word, plan choice is imperative for us and our union members.

For self-funded plans, PBMs are important service providers, allowing plans to design prescription drug benefits that are convenient and cost effective for plans and participants. They provide bargaining power to combat rising drug prices by drug manufactures and are an essential part of the market. Again, we appreciate the need for meaningful and thoughtful regulation of drug manufacturers, PBMs, and pharmacies, but regulation should not come at the expense of such a basic goal of ERISA – the ability of plans to maintain uniform plan design and administration nationwide.

We have seen legislation and amendments designed to gut Federal preemption under ERISA, which would be an affront to labor unions, our health plans and our members. We do wish to point out that many of those advocating for this assault on federal preemption are doing so to advance their own financial interests, albeit at the expense of our participants and beneficiaries served by these plans.

We have also heard throughout the legislative process that any reforms could simply be ignored by ERISA governed plans or that an ERISA governed plan doesn't *have* to employ a PBM. Simply, we choose to work with a PBM because of their ability to create market leverage and drive down cost. Not using a PBM would be akin to handing pharmaceutical manufacturers a blank check to name their price.

It should also be noted that the U.S. Court of Appeals for the Tenth Circuit recently rejected the State of Oklahoma's attempt to interfere with the uniform administration of self-funded plans and their structure and benefit design. While the pharmaceutical industry can reach into their deep pockets and support an aggressive legal strategy to rollback drug pricing reform efforts, Taft-Hartley plans are created from a collective bargaining process, and that the only money that such a plan has is the participants' money, held in trust to provide healthcare benefits. Any and all efforts to defend our plans comes from our members, your constituents. Not shareholders and highly paid corporate executives.

Union health plans have always been leaders in providing high quality benefits to our members and their families. We would urge the legislature to defend ERISA-governed plans and their beneficiaries.

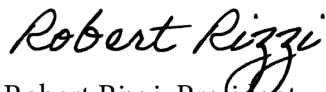
Sincerely,



Joe Carlson, President
Central Massachusetts AFL-CIO

**Central Massachusetts
AFL-CIO**


400 Washington Street, Auburn, MA 01501
Phone/Fax: 508-832-4218 • www.centralmassaflcio.org



Robert Rizzi, President
Norfolk County Central Labor Council



Lisa Lemieux, President
Greater Southeastern Massachusetts/AFL-CIO



Paul Georges, President
Merrimack Valley Central Labor Council



Bill Hill
Bill Hill, President

Plymouth-Bristol Central Labor Council



Robert Rizzi

Robert Rizzi
Quincy and South Building Trades

Building and Construction Trade Council
of
QUINCY AND THE SOUTH SHORE
In Affiliation With
Building and Construction Trades Department
AMERICAN FEDERATION OF LABOR
WASHINGTON, D.C. - AFL-CIO



Jim Evers

Jim Evers, President
Boston Carman's Union Local 589



Myles Calvey

Myles Calvey, Business Manager
IBEW Local 2222



Bob Butler

Bob Butler, President
SMART NERC



Anthony Pini

Anthony 'Tony' Pini
Legislative Political Director
Massachusetts and Northern NE Laborers
District Council



Mark Burns

Mark Burns
Business Manager
Local 133, Quincy Laborers

