

March 11, 2025

The Honorable Joseline A. Peña-Melnyk
Chair, House Health and Government Operations Committee
241 Taylor House Office Building
6 Bladen St.
Annapolis, MD 21401

Re: Letter of Concern – HB 1439 – Better Small Business Employee Benefit Act Of 2025

Dear Chair Peña-Melnyk and Members of the House Health and Government Operations Committee,

The Maryland Health Benefit Exchange (MHBE) respectfully submits this letter of concern on House Bill (HB) 1439 – Better Small Business Employee Benefit Act Of 2025. HB 1439 would allow professional employer organizations (PEOs) to offer large group health insurance plans to individuals and small employers in Maryland (those with less than 50 employees), enabling the insurance provided to small business enrolling through PEOs to be exempt from key federal Affordable Care Act (ACA) requirements that apply to the small group market. MHBE would like to highlight opportunities to use Maryland's existing insurance markets to achieve the aims of this bill, without the potentially destabilizing impact to Maryland's small group market posed by allowing small employers to purchase large group coverage.

MHBE is committed to supporting small employers in efforts to connect their employees to health insurance. We envision three pathways to coverage for small employers and their employees. First, this fall we are launching a streamlined end-to-end enrollment platform for small businesses that want to enroll in small group plans, to simplify the enrollment process and reduce administrative burden on small employers. However, we understand that some small employers may find it financially challenging to offer a small group plan to their employees. These employers have two ways to leverage the existing individual market. They can direct their employees to Maryland Health Connection (MHC) where employees can make use of any state or federal financial assistance for which they are eligible. A recent study estimated that 25% of enrollees in Maryland's individual market are self-employed or small business owners.¹ Alternatively, if the employer would like to offer a financial contribution to their employees' individual market premiums, the employer can set up Individual Coverage Health Reimbursement Arrangements (ICHRAs) for their employees.

ICHRAs are a relatively new alternative to traditional group plans, first becoming available to employers in 2020. ICHRAs allow employers to set aside pre-tax, fixed dollar amounts per employee for employees to use to purchase individual health insurance plans. ICHRAs leverage

¹U.S. Department of the Treasury, Office of Tax Analysis: [Affordable Care Act Marketplace Coverage for the Self-Employed and Small Business Owners](#) (September 2024).

the state's existing individual market with no changes needed to current law, and allow employers and their employees to benefit from Maryland's affordable individual market rates as well as ensure that small business employees benefit from all the ACA and other state protections in that market. MHBE is in the process of examining how to further support employers interested in ICHRAs to facilitate the purchase of individual market plans through the Maryland Health Connection (MHC). In the meantime, there are a variety of existing companies that assist employers with setting up ICHRAs in Maryland, and the funds available through an ICHRA may be used to purchase an individual market plan through MHC or directly from an insurer.

MHBE is concerned that allowing PEOs to offer large group plans to sole proprietors and small businesses may negatively affect the stability of the individual and small group markets. Generally, a larger risk pool of insured individuals in a single market provides a greater balance of low-cost healthier individuals who offset higher-cost individuals, contributing to greater market stability. However, because large group plans offered by PEOs would be allowed to rate based on health status, unlike in the individual and small group markets, there is concern that healthier individuals and small groups will leave the market in favor of less expensive plans offered by PEOs. This could leave a smaller pool of higher-cost people in the individual and small group markets which could result in increased premiums for those who remain, potentially destabilizing the markets and resulting in a higher state share of costs for the state reinsurance program. We also note that a recent report on PEOs submitted to the legislature by the Maryland Insurance Administration (MIA) did not include evidence that allowing small employers to access a PEO's large group plan would significantly reduce premiums for small businesses.²

For further discussions or questions on HB 1439, please contact Johanna Fabian-Marks, Director of Policy and Plan Management at johanna.fabian-marks@maryland.gov.

Sincerely,



Michele Eberle
Executive Director

² Maryland Insurance Administration, report pursuant to 2024 SB 821: [Professional Employer Organizations \(PEO\) Study](#) (January 2025)