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Good morning, my name is Michael Widmer, President of the Massachusetts Taxpayers Foundation. I would like to testify in support of the regulation issued by the Division of Health Care Finance and Policy regarding the employer fair share contribution under the health reform legislation (114.5 CMR 16.00).

The key point I want to emphasize is that, in drafting the regulations, the Division has honored the compromise agreement reached by the legislative leadership on the purpose of the fair share assessment. As one of the architects of this compromise, I can speak firsthand on this subject.

As the words "fair share" clearly state, the intent of the agreement was to equalize the employer burden of paying for free care. The agreement drew a bright line between companies who provide some health coverage, and thus already contribute to the costs of free care, and those companies who provide no coverage and would thereby be subject to the assessment.

The assessment's connection to the costs of free care is specifically laid out in the calculation methodology in the legislation. The amount of the assessment – capped at \$295 – is based on the average amount of free care used by the employees of employers who do not contribute anything to their employees' health coverage. The Legislature's estimate of revenue to be raised by the assessment was specifically calculated on the premise that only employers who provide no coverage would be subject to the assessment.

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 Division has creatively proposed a two-stage test that recognizes that employers providing some coverage are already meeting their obligations to the free care pool; it is appropriate that

only a small fraction of employers who currently contribute to health coverage would be required to pay the assessment.

The first stage of the two-stage test requires that a minimum of 25 percent of an employer's full-time, permanent employees participate in the health plan offered by the employer in order for the employer to be exempt from the assessment. This means that employers who provide coverage for full-time employees but not for part-time employees would not be liable for the assessment so long as they met the minimum participation rate among their full-time employees.

Should an employer fail to meet the enrollment target, the second test stipulates that an employer would be exempt if the employer offered to contribute at least 33 percent of the premium. This provides protection for those employers who offer a health plan but whose employees have declined an offer of coverage.

Employers who cannot afford to subsidize the entire premium but who wish to make a modest contribution to the costs of an employee's policy should be encouraged to do so without incurring the fair share assessment. If too high a threshold were set to satisfy the "fair and reasonable" requirement, employers would lose the incentive to help their employees because they would have to pay once towards their employees' cost and again for the fair share assessment.

I urge that this regulation be adopted as proposed.