



June 15, 2022

Malinda Southard
Executive Director
Nevada Patient Protection Commission
400 W. King Street, Ste. 300
Carson City, NV 89703

Re: Nevada Association of Health Plans (NvAHP) Public Comment for June 15, 2022, Meeting

Dr. Southard, Chair Khan, and PPC Commissioners,

The Nevada Association of Health Plans (NvAHP) is a statewide trade association representing [nine member companies](#) providing commercial health insurance and government programs to Nevadans. Our mission is to ensure the growth and development of a high quality and affordable health care delivery system throughout the state. The NvAHP has and continues to engage in PPC meetings by way of reviewing and listening to them and is committed to being a resource for the Commission. In an effort to be a helpful partner, the NvAHP brings forth the following items for the PPC to consider in subsequent discussions.

Lack of Insurance Industry Representation

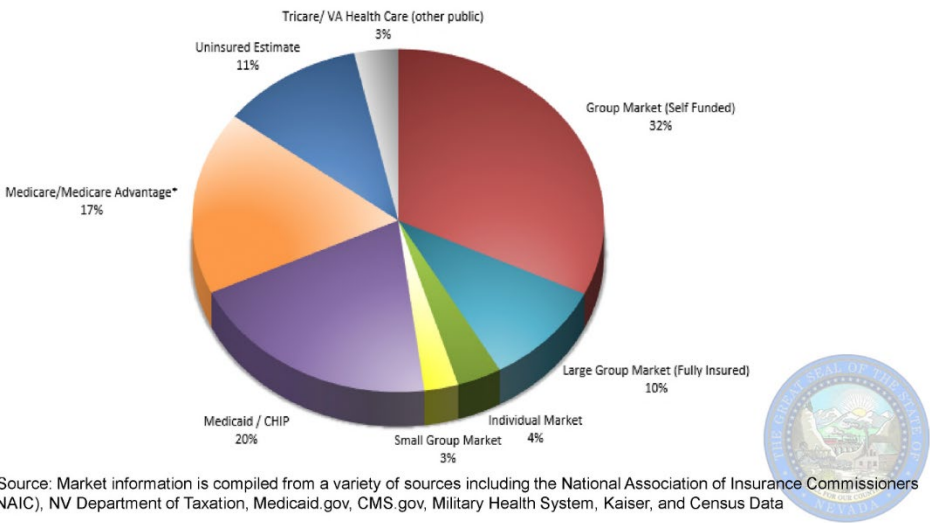
The NvAHP believes that any discussion on health care issues would benefit from having all segments of the health care industry represented. Unfortunately, as the PPC discussions ensue, it has become apparent the Commission does not include members who understand the Health Insurance market. Therefore, the lack of understanding has affected some of the recommendations/decisions made by the PPC. NvAHP believes that someone with an understanding of the industry the state regulates, could have provided information that would have assisted the PPC as it discussed decisions. We respectfully recommend the PPC consider the addition of an individual who represents the insurance industry.

The following are examples we believe would be beneficial with Insurance representation:

- **Fiscal impact/Premium Tax implications:** At the May 18, 2022, PPC meeting, several Bill Draft Request (BDR) topics were discussed and while NvAHP applauds the commissioners for the in-depth deliberation it held, NvAHP shares a general concern that during these discussions, the potential fiscal impact that several of the BDR topics could have on the state were not raised. Although the NvAHP is not able to determine specifically what the fiscal impact would be, an insurance industry expert could have shared what it has experienced in other markets and allowed the PPC to consider the fiscal impacts on the state.
- **Affordable Housing Initiatives:** Affordable housing discussions have been a topic of past meetings. Many of our health plan members offer services that could have aligned with several BDR topic discussions on Affordable Housing initiatives as part of our Medicaid Managed Care contracts. For example, as part of Nevada's 2022 Managed Care Contract, the state required MCOs to invest three percent of pretax profits into the community being served. Many of these investments include housing programs and initiatives. Outside of the contract, our managed care organizations have included affordable housing options as value-based programs. Furthermore, the Healthy Living Expansion (HLE) a collaborative, public/private partnership including Clark County Department of Social Services, Anthem, Health Plan of NV, SilverSummit, Molina, HELP of Southern Nevada, and the Southern NV Homelessness Continuum of Care, has proven to be a success in the south. The Healthy Living Expansion (HLE) is a Permanent Supportive Housing (PSH) project serving the most housing-focused case management, medical case management, and supportive services to assist households in becoming self-sufficient.

- **ERISA Pre-Emption:** The issue of ERISA pre-emption was examined at the PPC meeting. It is a critical issue the PPC should consider as it attempts to gather information regarding health care cost and spending by organizations providing health care coverage. While the state of Nevada, through the Division of Insurance, has the authority to regulate and request information from the insurance companies it regulates, the Division and the state have no authority over many of the organizations that provide health care coverage in Nevada, including ERISA Self- Funded employers (often referred to as ERISA ASO). Additionally, ERISA Pre-Emption limits a state’s ability to regulate most organizations that provide health care coverage in Nevada.
- **Cost Containment Study:** A discussion of ERISA Pre-Emption would have been beneficial as the PPC discussed the scope of the Cost Containment Study. It appears based on the cost-containment data request by the PPC vendor, that the vendor believes the state has the authority to request ERISA ASO claim data from insurers. However, this is not accurate. Insurers cannot be mandated to provide ERISA ASO data.
- **Insurance Market:** The Division of Insurance has provided information regarding health care coverage in Nevada. NVAHP would like to point out only 17% of the health care coverage in Nevada is provided by insurers regulated by the Division of Insurance (individual, small group, and large group). Most health care coverage is provided by either ERISA self-funded plans or government programs. (See chart below).

Healthcare Results by Coverage Category*



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Milbank Memorial Fund and Next Steps

On March 9, 2021, the Milbank Memorial Fund announced that Nevada was among five states selected to participate in the Peterson-Milbank Program for Sustainable Health Care Costs (Program), that enabled the

¹ Barbara D. Richardson, Commissioner of Insurance. May 3, 2022. *Presentation to the Interim Committee on Commerce and Labor*. Division of Insurance, State of Nevada Department of Business & Industry.

Milbank Memorial Fund and Bailit Health to provide technical assistance to Nevada as it sets and implements health care cost growth targets.² Bailit Health presented to the PPC on March 15, 2021.

It is NVAHP's understanding that the Program's intent and funding is limited to a 24-month period. NVAHP believes that the PPC should consider how the state will cover ongoing costs of this program when the Milbank Memorial Funding ends. It may be helpful for the PPC to inquire into what other states, such as Delaware and Washington, have done with respect to covering costs for this ongoing effort.

Finally, the NVAHP respectfully requests the PPC make available to the public all reports, sources, data, and information that Bailit Health references in various presentations. For example, Bailit Health most recently declared there is "robust evidence nationally demonstrating in the commercial market that growth in health care costs is due to pricing increases and that health care consolidation leads to higher health care costs without improving care quality or patient outcomes."³ NVAHP would like to further understand and review the data that led Bailit Health to make this and other similar conclusory statements to ensure that the information being presented to the public and the PPC is comprehensive. To date, NVAHP has not seen any citations or references in presentations made by Bailit Health.

NVAHP appreciates your time and consideration of the topics we have brought forth and look forward to having a discussion. We pledge to continue to monitor and weigh-in on these critical issues that have everlasting impacts on all Nevadans.

Sincerely,

Helen A. Foley
Legislative Advocate
Nevada Association of Health Plans

cc: Sarah Peters, Chair, Joint Interim Standing Committee on Health and Human Services
Sandra Jauregui, Chair, Joint Interim Standing Committee on Commerce and Labor
Barbara D. Richardson, Insurance Commissioner, Nevada Division of Insurance
Richard Whitley, Director, NV Department of Health and Human Services

² <https://www.milbank.org/news/five-states-join-the-peterson-milbank-program-for-sustainable-health-care-costs/>

³ Michael Bailit, Bailit Health. May 18, 2022. *Meeting minutes of the Patient Protection Commission.*