



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

April 10, 2006

Honorable Richard J. Durbin  
United States Senator  
332 Dirksen Senate Bldg.  
Washington, DC 20510

Honorable Barack Obama  
United States Senator  
713 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senators Durbin and Obama:

As the principal enforcer of Illinois' consumer protection laws, I write to express my grave concerns about Senate Bill 1955, the Health Insurance Marketplace Modernization and Affordability Act of 2006, introduced by Senator Enzi of Wyoming and passed by the Senate Committee on Health, Education, Labor and Pensions on March 15, 2006. I urge you to actively oppose this bill.

If passed, this legislation would have negative consequences for consumers in Illinois and throughout the country. The bill preempts state laws that control the cost, quality and accountability of health insurance delivery, causing many important consumer protections to be eliminated. It erodes consumer access to critical health benefits, and will substantially undermine the ability of states to ensure that health insurance plans are accountable for business practices affecting the health and welfare of state citizens.

- The bill would permit all types of insurance plans (individual, small group and large group), not just small business plans, to offer bare-bones insurance policies that do not include state-mandated benefits, even though our state legislators have decided – after due deliberation and over the course of many years – that certain benefits are essential to meaningful insurance coverage and a healthy population. In Illinois, state mandated coverage includes cost-effective preventative care such as mammograms and other types of cancer screening, supplies necessary for diabetes management, access to specialists, care for newborns and adopted children, mental health treatment and other important safeguards. Although the bill requires that insurers offering bare-bones plans also offer an alternative plan that resembles the coverage offered in one state employee health plan in one of the 5 most populous states, given the range of state employee plans that currently exist, the alternative plans offered could also be substandard, with high deductibles and no state mandated benefit coverage.

- The bill would preempt important state protections against unfair insurance claims handling practices, likely eliminating the right of Illinois consumers to an external review of a claim denial. Without these protections, consumers would lose fundamental rights to contest unwarranted denials of insurance coverage and might not obtain benefits to which they are entitled.
- The bill permits insurance carriers to sue states that do not adopt the new federal standards (non-adopting states) and to obtain injunctive or equitable relief against the state if either: (1) the state prohibits the carrier from marketing, offering or implementing a plan consistent with the federal standards; or (2) the state retaliates against the carrier for marketing, offering or implementing a plan consistent with the federal standards. Not only does the bill open the door to a new breed of lawsuits against the states, but it affords insurers the unprecedented right to bring those claims directly in the federal court of appeals, and to have them decided on an expedited basis (120 days for cases brought in the district court; 60 days for cases brought in the court of appeals). There is no comparable right for priority treatment of state or consumer claims against health insurers.

We must act quickly, but responsibly, to address our country's health care crisis. Regulation of health insurance long has been recognized as a state police power, because states have both the interest in and expertise to regulate this industry in a manner that accommodates the health care needs of their citizens. Federal preemption of this state regulatory oversight is bad policy that flies in the face of the long-standing balance between federal and state powers.

While we need to take steps to make health insurance more accessible and affordable for our citizens, this bill would have the opposite effect. Not only would this bill make health insurance more expensive and of a poorer quality for millions of uninsured Americans, but it would ultimately increase premiums and lower the benefits of coverage for millions of Americans who already have health insurance. With the best interests of the citizens of Illinois in mind, I urge you to actively oppose this legislation.

Sincerely,



LISA MADIGAN

Attorney General of the State of Illinois

cc: Senator Michael B. Enzi  
Senator Edward M. Kennedy