

From: Brad MacDougall [REDACTED]
Sent: Monday, October 19, 2015 10:32 PM
To: Dixon, Lisa (ANF)
Subject: AIM | Specific suggestions for regulatory reform
Attachments: AIM_ Blueprint for the Next Century_wb2.pdf; Blueprint - Key Issue Summaries.docx; FW: Senate Amendments - CO detectors; State RFA Model Legislation.pdf; State RFA Model Legislation Key Elements.pdf; Final -Delisting the Use of Asphalt for Reporting to the Toxic Use Reduc....docx; RBizzozero letter.docx; Cummings.pdf; AIM TURA fee increase final comments.pdf; AIM hoisting regs comments.pdf; mclaughlin-07092014121110.pdf; Governor.StateContractIssue.150416.docx; Governor.StateContractIssue.Vendor Comps.150416.jpg; AIM_Regulatory Review Suggestions.docx; Regulatory Review_Call List.docx; Regulatory Review - Healthcare Examples.doc; Regulatory Review - Healthcare Reg Suggestions.docx; DOR.DOCX; Tax Issues.pdf; Reform Legislation for the Massachusetts Department of Revenue.doc; DUA LEGISLATIVE ACTION LIST.DOC; Letter to agencies re business impact statements jrr edits (3) (2).doc; Response to: Regulation (www.aimnet.org); Response to: Regulation (www.aimnet.org); Response to: Regulation (www.aimnet.org); Response to: Regulation (www.aimnet.org); Response to: Regulation (www.aimnet.org); Response to: Regulation (www.aimnet.org); RE: FW: Response to: Regulation (www.aimnet.org); Auditor suggestions.doc; New reg-830-63-38-1 Old MA Tax Intel revised draft (3).pdf - Adobe Acrob....pdf; Comment response letter.pdf; Tax Analysts -- Massachusetts Group Calls Market-Based Sourcing Reg Burd....pdf; AIM_Regulatory Review Suggestions.doc; MASS DEP Underground Storage Tank Operator Certification.pdf; UST regs cover letter 2nd version April 2012 (A0945857).pdf; AIM_Regulatory Review Suggestions.pdf; Updated_AIM Regulatory Review Initiative Recommendation_2010.doc

Follow Up Flag: Follow up
Flag Status: Completed

Lisa – Attached are the specific regulations we suggested be reviewed. I had given these to Tim Wilkerson a while back. Most if not all of the feedback is in the memos, but some are separate since they submitted specific emails or letter to us.

Wanted to make sure you had a copy along with the original memos AIM submitted on regulatory reform – one in 2008, 2010, 2012 and 2014/15.



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Here are a few resources for the strategic eco dev planning and regulatory reform. Below is our AIM legislative agenda. I'll follow up with a list of other items we are concerned about and will work on. I'll mail you a copy of the BluePrint, which is attached as a PDF. The Blueprint (docx) provides a summary of the key issues.

You can sign up for our blogs here: <http://blog.aimnet.org/AIM-IssueConnect>

Reg reform: [http://www.aimnet.org/employer-issues-center/Regulatory Reform.cfm](http://www.aimnet.org/employer-issues-center/Regulatory_Reform.cfm)

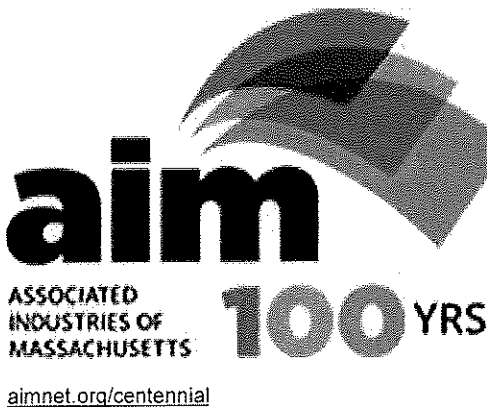
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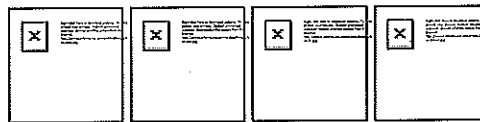
Budget and Tax: [http://www.aimnet.org/employer-issues-center/Budget Tax Finance.cfm](http://www.aimnet.org/employer-issues-center/Budget_Tax_Finance.cfm)

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Energy, Health-Cost Bills Highlight AIM Agenda

Posted by [Christopher Geehern](#) on Jan 16, 2015 1:03:00 PM

Measures to control electric rates and the cost of health care highlight a package of 19 bills filed with the state Legislature today by Associated Industries of Massachusetts.

The AIM filings include bill designed to clarify details of the paid sick leave law approved by voters on November 4.

The association filed the bills on behalf of its 4,500 member employers as the Senate and House of Representatives begin a two-year Beacon Hill session that will run through July 2016. It is a session that will play out amid uncertain political dynamics among with newly elected Republican Governor Charlie Baker, newly elected Senate President Stanley Rosenberg and incumbent House Speaker Robert DeLeo.

The AIM health-care bill would limit the growth of medical spending to two percentage points below overall economic growth. The 2012 Massachusetts Health Cost Containment law currently sets a benchmark equal to the growth of Gross State Product.



Associated Industries of Massachusetts today supports its public policy agenda as it enters the 2015 legislative session. The organization has filed 19 bills with the Legislature, including measures to control electric rates, reduce health care costs, and clarify details of the paid sick leave law. The bills are part of a package of 19 bills filed with the Legislature today. The bills are part of a package of 19 bills filed with the Legislature today. The bills are part of a package of 19 bills filed with the Legislature today.



The energy legislation seeks to stabilize the cost of electricity by reorganizing the Department of Public Utilities into an independent agency and requiring that at least one DPU commissioner have experience in commercial and industrial ratepayer issues.

“Moderating the costs of health insurance and electricity is a central objective of AIM’s *Blueprint for the Next Century*,” said John Regan, Executive Vice President of Government Affairs, referring to the long-term economic strategy AIM is developing in connection with its 100th anniversary.

“We’re wasting no time in getting these critical issues before the Legislature as the 2015-2016 session gets underway.”

AIM lobbied aggressively in 2012 to limit the growth of medical spending to “GSP minus two” but lawmakers eventually approved, and Governor Deval Patrick signed, a compromise measure setting the target initially at GSP, moving to half a percentage point below GSP in 2018. Medical spending during the first year of the cost-control law increased 2.3 percent, well under the 3.6 percent growth rate for the economy.

“The system is showing that two percentage points less than overall growth is certainly a reasonable target, especially since experts agree that one-third of medical spending is wasteful,” Regan said.

Filing of the electricity bill comes as Massachusetts employers and homeowners face increases of up to 37 percent in their electric bills because of natural gas pipeline capacity issues. Representative Patricia A. Haddad, D-Somerset, filed a separate omnibus energy bill on Friday, signaling that the cost of power will be a major topic of debate for lawmakers during the next 18 months.

“Average electric rates in Massachusetts are the third highest in the nation for industrial ratepayers, according to the United States Department of Energy’s Energy Information Administration. AIM looks forward to working with Representative Haddad and other members of the Legislature to lower electricity prices while increasing the use of clean energy,” said Robert Rio, Vice President of Government Affairs at AIM.

Regan stressed that the paid sick leave corrections bill does not represent an attempt to circumvent the will of the voters, but rather to provide employers with a clear roadmap for complying with the new law. AIM has received questions from thousands of employers since November on issues such as eligibility and how the new statute works with existing paid time off benefit plans.

The AIM bill would:

- Clarify who is eligible for leave and how the leave is appropriately taken.
- Clarify the accrual process and use of earned sick time in a manner that conforms to current payroll systems.
- Provide flexibility for companies to integrate existing Paid Time Off (PTO) systems with the law.
- Clarify documentation and disciplinary actions.
- Provides a smooth transition year when the earned sick time law becomes effective



Leadership is our business

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Last Update: March 23, 2010

March 7, 2008

The Honorable Deval Patrick
Governor
Commonwealth of Massachusetts
360 State House
Boston, MA 02133

The Honorable Martha Coakley
Attorney General
Commonwealth of Massachusetts
One Ashburton Place
Boston, MA 02133

Dear Governor Patrick and Attorney General Coakley:

As per your request of October 26, 2007 we are pleased to forward initial examples of state regulations and statutes that impact economic growth in the Commonwealth.

The enclosed information has been divided into four sections, including:

- Initial results of an AIM member survey on economic climate and government regulations issues,
- Examples of broad regulatory reform for the Commonwealth including business impact statements, the Massachusetts Register and regulatory promulgation.
- Examples of government regulations and statutes that impact economic competitiveness,
- Examples of regulations and statutes that either duplicates federal statute/regulations and/or are more focused on process rather than protecting the environment.
- **New regulatory impacts of “Combined Reporting”, so-called “Global Warming Solutions Act” and “Solar Carve Out”**

Regarding the survey results, when reviewing tabulations, you will note that an overwhelming number of respondents felt that state government can take steps to improve the condition of their businesses. The survey also indicates that Health Care cost, Tax Policy, Energy cost and Unemployment Insurance are the issues which are of greatest concern, and have a direct impact to job costs, which hinder business's ability to hire new employees and make capital investments.

It is AIM's belief that we could be successful in addressing health care costs, energy costs together with streamlining government regulations, along with enacting public policies to encourage new investment, that the economic future of the Commonwealth will improve.

In the days and months ahead, AIM stands ready to work with members of the administration and legislative leadership to help move our economy forward. In the meantime, we will continue our efforts to identify state regulations and statutes that impact growth in the Commonwealth. As additional information is developed, we will bring them to your attention.

Sincerely,

John R. Regan
Executive Vice President – Government Affairs

Cc: Secretary Daniel O'Connell
Secretary Ian Bowles
Senate President Therese Murray
House Speaker Salvatore DiMasi
AIM Board of Directors

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**Associated Industries of Massachusetts
March 3, 2008**

Section I

Initial Survey Results

- This survey represents **66** Massachusetts employers totaling over **13,000 jobs**.
- **95%** of those surveyed stated that MA regulation is currently over burdensome
- Top issues of concern for Massachusetts business regarding specific areas of regulatory burden and cost impact that significantly impact competitiveness:
 - **15%** of total respondents reported that the Cost of Health Care regulatory compliance is burdensome and costly.
 - **18%** of total respondents reported that environmental regulations were overly burdensome with **11%** of total respondents reporting that current chemical compliance and regulations are strict and at times redundant with Federal regulations.
 - **15%** of total respondents reported that Workman's Compensation benefits were too rich.
 - **18%** of total respondents reported that Unemployment Insurance benefits were too rich and that the current system is complicated and biased towards the employee.

Associated Industries of Massachusetts
March 3, 2008

Section II

Regulatory Reform - Business Impact Statements

ISSUE: REGULATORY NEGLIGENCE - BUSINESS IMPACT STATEMENTS

CURRENTLY:

- While much of the public focus is often on major legislative proposals, which might impact the state's business climate, every business knows that exhaustive regulations adopted by state agencies have potentially greater impact in terms of the burden imposed on the business and in terms of cost.
- Legislation passed by the General Court often outlines the broad parameters of public policy while leaving the implementation-related details to the administrative branch of government, specifically by granting agencies the authority to draft and promulgate rules and regulations. The exercise of this power allows agencies to create regulations containing a significant level of detail. The body of regulatory law has developed over the years, within Massachusetts and nationally, so that it constitutes the predominant type of law affecting individuals and business.
- Further the state recognizes the cost impact on municipalities as Executive Order #145 mandates that notice of proposed regulations be sent to the local government advisory committee prior to the public hearing or comment period, which details the agencies best judgment of elements, which might impact on local government including, preliminary cost estimates.

SOLUTION:

- Administrative and regulatory agencies should comply with Massachusetts General Law Chapter 30A Section 5, which mandates that an impact statement taking into account the "fiscal effect including that on the public and private sector, for its first and second year, and a projection over the first five-year period" into consideration during the rulemaking process. The enforcement of this MGL should result in the rejection of any rule that does not include a business impact statement.

Associated Industries of Massachusetts
March 3, 2008

Section II

Regulatory Reform - The Massachusetts Register

ISSUE: THE MASSACHUSETTS REGISTER IS NOT PUBLIC KNOWLEDGE

CURRENTLY:

- The Mass Register includes important public information including notices of Public Review of Proposed Regulations, Executive Orders of the Governor, Opinions of the Attorney General, the State Register of Historic Places, the list of Acts and Resolves enacted during the current legislative session and other items that the Secretary considers to be of sufficient public interest.
- Currently, Massachusetts residents must be paying subscriber to this publication. Periodic notifications from various agencies are difficult to find and often do not provide sufficient time for an individual citizen to actively and constructively participate in the public process.
- Future rule making and administrative hearings would benefit from greater public participation and awareness of agency activities.

SOLUTION:

- Given current technology and the increased transparency of government operations, the Massachusetts Register should be available in an online format and searchable database. Additionally, as some agencies currently do, subscribers should be afforded the opportunity to be included a list-serve that will communicate update as they occur to the Massachusetts Register.

Associated Industries of Massachusetts
March 3, 2008

Section II

Regulatory Reform - Massachusetts Regulatory Promulgation

ISSUE: INCONSISTENT, UNPREDICTABLE REGULATORY PROCESS

CURRENTLY:

- Regulatory processes are described under M.G.L. c. 30A Administrative Procedure Act, 950 CMR 20.00: Preparing and Filing Regulations and through Executive Order #145.
- Statutes often outline only the broad parameters of public policy, while individuals and businesses are directly affected by specific rules and regulations promulgated by administrative agencies under a procedural act which requires little economic analysis or notice to the Legislature and to interested parties.
- Over the years, authorizations from the Legislature to administrative agencies of state government to adopt rules and regulations have grown. The exercise of this authorization requires agencies to create new law with a significant level of detail. The body of “regulatory law” has developed, within Massachusetts and nationally, so that it constitutes the predominant type of law affecting everyone, as judged by the sheer size of the volumes needed to contain these ever-evolving laws. A recent and widely observed example of such sweeping and detailed regulation is the Title 5 septic system rules issued by the Department of Environmental Protection. Rules and regulations of state agencies now affect everyone in Massachusetts, directly or indirectly, often substantially.
- Relatively little analysis or notice to the Legislature and interested parties, however, is required in the state administrative procedure act — the procedural statute under which all rules and regulations are adopted in Massachusetts — to ensure real awareness of rulemaking or to explain the scope, benefits and financial impact of such rules to the public and the Legislature.

SOLUTION:

- This deficiency can be fixed by creating a requirement in Massachusetts law for early identification of rule making and for articulation of the scope, benefits, and costs of new rules and regulations. The proposed legislation would amend the Massachusetts administrative procedure act (M.G.L. c. 30A) to require preliminary and final notice of rule

making to interested parties and appropriate committees of the Legislature, without changing the existing notice provisions for the general public. It would further amend the administrative procedure act to require an articulation of the problem to be addressed, benefits to be achieved and financial costs to be incurred, if any, as a result of proposed rules. This analysis would be presented in a “regulatory impact statement” (RIS) prepared by the government agency proposing the rules and made public during the rulemaking process under Chapter 30A. Underlying data used to complete the RIS would be part of the public record, so that all affected parties would now have access to the information used by the promulgating agency in completing the RIS to understand the premise on which it is based.

- This notice requirement and analysis would be required only for new rules issued under Chapter 30A. It would have no effect on existing regulations, financial functions of administrative agencies (such as grants or loans), individual projects, or permits issued by agencies. It would not affect adjudicatory proceedings undertaken pursuant to Chapter 30A. Finally, the findings of the “RIS” would not affect proposed rules from being implemented pursuant to Chapter 30A. The “RIS” functions simply as a disclosure analysis for the public, interested parties, and the Legislature. Collectively, these measures will make the process of promulgating regulations more comprehensive, more open to public comment and participation and more responsive.

Associated Industries of Massachusetts
March 3, 2008

Section III

General Government Statutes and Regulations Impacting Competitiveness

ISSUE: MGL 149 SECTION 103

CURRENTLY: Requires chairs be provided for employees when not actively engaged in their job duties unless the job cannot be properly performed with the chairs. Exemptions are currently available, however new regulatory policies could make additional requirements that impact retail stores to provide additional break room and additional accommodations. This law is over 100 years old and does not consider current day business conditions.

SOLUTION: Remove MGL 149 sec 103. Occupational Standards Health Administration (OSHA) standards and other requirements still apply

Associated Industries of Massachusetts
March 3, 2008

ISSUE: MCAD AND FRIVOLOUS LAWSUITS

CURRENTLY:

- In the current system, an employee can file a complaint with the Massachusetts Commission Against Discrimination (MCAD) for a \$25 application fee, to initiate the grievance process.
- This process can cost an employer tens of thousands of dollars in legal fees, plus the cost of an employer's time, effort, energy and aggravation.
- Within the current system, there is too wide of a gap for frivolous lawsuit to grow. Employee discrimination and retaliation cases are examples of hidden business costs.
- Associated Industries of Massachusetts believes that all state agencies have an obligation to be efficient, fair, and reasonable. Unfortunately, the Massachusetts Commission Against Discrimination can be an aggravating experience for many firms who find themselves involved in actions before the agency. Associated Industries of Massachusetts has long advocated that this imbalance be fixed through improved processes and timelines, and by a following of standard rules of procedure.
- The Massachusetts Commission Against Discrimination (MCAD) was organized as the Fair Employment Practices Commission in 1946 but changed its name in 1950 to reflect that its jurisdiction was broadened to include public accommodations and housing its power to enforce discrimination findings (including in the workplace) was also widened. The Agency has exclusive jurisdiction for certain discrimination claims before a party can bring a claim in Superior Court. As the initial agency responsible for resolving discrimination claims, MCAD's operating philosophy is to allow all such claims to proceed initially, regardless of their ability to withstand scrutiny.
- Appearing fair on its face, this approach, however, bogs down because the system is poorly staffed, and follows lax procedures to handle the volume of complaints it receives each year. Taxpayers are left supporting an inefficient process where frivolous complaints are being pursued while legitimate complaints are not being addressed in a timely fashion. Parties seeking relief from discrimination suffer along with employers in a system that delays justice.

SOLUTION:

Regulatory changes could create a more effective, efficient and less costly process for all parties so that appropriate justice will not be delayed and the rights of the parties are respected. To comprehensively address these goals, the legislation:

- Clarifies the complaint-intake process, requiring the initial filing to present a clear articulation of the dispute, and creates deadlines for specific actions by the employee, employer and the Commission, including a 365-day deadline for probable cause finding by the Commission
- Creates a filing fee for complainants, where the fee can be waived or refunded as appropriate, to generate revenue for the Commission's operations and to ensure the complainant is committed to the process
- Allows discovery only after a probable cause finding (except where discovery is necessary for a probable cause finding); requires, based on traditional rules of evidence, that discovery orders be issued or denied in 30 days of request by a Commission attorney; and provides (subject to a good cause exception) that each party must attend
- Requires all parties to attend all scheduled conferences and hearings upon penalty of default
- Provides that the Commission must consider summary judgment motions at the conclusion of discovery and before a public hearing on a case, and provides that in cases not certified to a public hearing the parties receive a notice that the case can be removed to state or federal court
- Establishes explicit procedures to allow the respondent to remove the case to state or federal court to pursue adjudication by a jury (similar to the explicit right the complainant has now)
- Mandates that before the Commission adopts a new guideline(s) it seek public comment during a 90-day period.

Associated Industries of Massachusetts
March 3, 2008

Section IV

Environmental Statutes and Regulations Impacting Competitiveness

ISSUE: REGULATORY SALES TAX DEFINITION ON ENVIRONMENTAL AND SAFETY EQUIPMENT FOR MANUFACTURERS

CURRENTLY:

- Present state sales tax definition does not include certain environmental and safety equipment such as thermal oxidizers, supplies and energy.
- This is an important and costly issue to comply with state clean air regulations and manufacturers operate thermal oxidizers. In the process, manufacturers consume a significant amount of natural gas to fire these oxidizers in addition to the natural gas to fire the coater dryers themselves. As a manufacturer, state sales tax is not paid on the materials, and energy and fuel. One exception is that manufactures pay the state sales tax on the natural gas used to fire the thermal oxidizers.
- By the State's tax and regulatory law, providing equipment and supplies necessary to run a safe work place is not by definition a part of the manufacturing process.

SOLUTION:

- Expand the state's sales tax definition to include environmental and safety equipment for manufacturing.

Associated Industries of Massachusetts
March 3, 2008

ISSUE: NEW STORM WATER REGULATIONS, 310 CMR 10

CURRENTLY:

- New drafted regulations were put in place in January of 2008 and finalized regulations are still pending.
- These new regulations are significantly costly for financing new commercial and industrial projects. Compliance issues have become especially over burdensome in the past few years. Combined with the cost of building materials and tougher regulations builders have experienced a significant overall increase in construction costs over the past 5 years.

SOLUTION:

- Administrative and regulatory agencies should comply with Massachusetts General Law Chapter 30A Section 5, which mandates that an impact statement taking into account the “fiscal effect including that on the public and private sector, for its first and second year, and a projection over the first five-year period” into consideration during the rulemaking process. The enforcement of this MGL should result in the rejection of any rule that does not include a business impact statement.

Associated Industries of Massachusetts
March 3, 2008

ISSUE: EDUCATIONAL REQUIREMENTS OF A STEAM BOILER "SPECIAL LICENSE"

CURRENTLY:

Under the current boiler licensing law, MGL CH 146, Section 49, Steam Boiler operators are classified from first class to third class engineers, depending on the size of the boilers operated. There is also a separate class of operators known as "Special License" holders, which are very limited licenses, with much less stringent licensing requirements than the first through third class engineer requirements. Unfortunately, they are grouped in with the first class through third class licensed operators when it comes to continuing education requirements, currently 30 hours per 5 year period, even though these special licenses are extremely limited. This has caused a large amount of expense and paperwork for limited license holders and the Department of Public Safety.

SOLUTION:

Associated Industries of Massachusetts supports changes in state law allowing less stringent continuing education requirements for these "special license" holders. AIM's bill would shorten the continuing education requirements for these "special license holders to 6 hours per 5 years.

The Department of Public Safety supports this bill.

ISSUE: HOISTING REGULATIONS - 520 CMR 6.00-6.11

CURRENTLY:

On May 14, 2007 AIM filed comments on the state Department of Public Safety's proposed amendments to its regulations affecting the operation of hoisting equipment. AIM noted several areas in which the proposed changes could create potential conflicts with federal Occupational Safety and Health Administration (OSHA) requirements, with regard to operator standards, instructor licensure, and training facilities, which could lead to confusion as companies try to comply with both standards. AIM expressed concern about lack of outreach by the Department in proposing the amendments, and asked that the public comment period be reopened to give trade associations and their members more opportunity to comment on these new requirements.

SOLUTION: Proposed amendments to 520 CMR 6.00-6.11

First, AIM believes the Department should reopen the public comment period and use trade associations to perform outreach to their members allowing time to comment on these new requirements. Second, there are several major potential conflicts with OSHA in these proposed regulations leading to confusion as companies try to comply with both standards.

Section 310 CMR 6.02

- Duly licensed instructors - OSHA states that to train, a person must be "knowledgeable and experienced". Unlike these proposed regulations, they do not have other requirements to be an instructor.
- Approval of training facilities - Due to the requirements outlined in this proposal, many employers may not become training facilities and therefore the state regulations would be in conflict with OSHA requirements that the training must be site and equipment specific.
- OSHA does not require a driver's license or DOT physical to operate a forklift.

Section 310 CMR 6.03

- OSHA requires new performance evaluations to be conducted at least every three years. The state license is only valid for two years, increasing the burden on employers who could wait another year to go through the process.

Section 310 CMR 6.06

- OSHA requires visual inspections on each shift, but does not require written documentation. They do not require any periodic inspections, yet under the proposed regulations DPS will require thorough inspections at 90-day intervals.

Although AIM believes that state-to-state variability in any requirements are generally unnecessary, we recognize that in certain instances the DPS may have valid reasons for unique

requirements. However, to the extent possible, state requirements and OSHA requirements should mirror each other, especially for administrative issues. AIM hopes the DPS can reconcile some of these differences.

Those issues aside, however, AIM's fundamental concern with these regulations has been that the outreach to the regulated community has been minimal and we believe that the DPS is losing a terrific opportunity to involve stakeholders in a process that will lead to more consistent regulations while enhancing the safety of workers in Massachusetts. AIM urges the Department to rethink the issuance of these regulations until a stakeholder process can occur and would be pleased to be a member of that process.

AIM Addendum for Regulatory Review Initiative

March 21, 2008

DOI Regulatory Reform Suggestions

The following are suggestions for improving administrative simplification:

- **Amendments to 211 CMR 41.00:** Nongroup Health Insurance Rate and Policy Form Filings, Review, and Hearing Procedures Under M.G.L. 176M

This regulation applies to Nongroup (individual) products that are closed to new members, but “guaranteed issue” laws require that they remain available to existing members. Because they are closed products and other products are available to individuals in the merged markets, we have suggestions for change to the regulation.

Recommendations:

- The current regulation states that products may not be cancelled until the number of subscribers declines to 25% of the number of subscribers that were in the plans as of 12/31/2004. We suggest allowing the cancellation of the products on a shorter timeframe, perhaps on 1/1/2009, 7/1/2009, or 1/1/2010. Because these products were not cancelled until 7/1/2006, there was growth in some products during these eighteen months and current membership is more than 100% above the threshold. We think carriers should not be burdened with these closed products for such a long time period.
 - Change the rate filing and review process for the closed guaranteed issue products to a “file and use” filing procedure. Require filings 30 days in advance of the effective date and rates deemed approved if not disapproved within 30 days. There is little value in continuing with the calculation of the “average adjusted composite rate” and the two standard deviations threshold for rate approval now that 1) these products are closed, 2) products are readily available for individuals in the merged market, and 3) the limited (declining) membership in these products.
- **Amendments to 211 CMR 42.00:** The Form and Contents of Individual Accident and Sickness Insurance
 - Address the outdated and duplicative c. 176 A/B regulations that should have been superseded by the new merged market small group and non-group regulations. 211 CMR 42.00 mainly applies to individual policies for AD&D, Disability, and Long Term Care. This regulation out of date and duplicative with respect to individual health insurance for two reasons.
 - It could be interpreted to require rate filings on the merged market individual products, which are rated with the small group products. This would be burdensome on insurance carriers.
 - For the closed Nongroup products, 211 CMR 41.00 is the applicable regulation.

The Division of Insurance (DOI) has also recently interpreted 211 CMR 42.00 to pertain to dental insurance, although the word dental is found only once, stating that the regulation applies to a dental service corporation organized under MGL c. 176E. There is no dental insurance included under the specific types of policies and no language that would relate to dental plans.

Recommendations:

- 211 CMR 42.00 should be revised to clarify which products it applies to (e.g. AD&D, DI, LTC) and which products are excluded (e. g. dental, hospital expense insurance, major medical expense insurance).
- If the DOI decides to include individual dental insurance in any revised regulation, we think it should specify which provisions apply to dental and the regulation should be expanded to apply to all carriers that offer individual dental insurance, not just BCBSMA and companies organized under 176E.

- **Amend 211 CMR 43.00: HMO Licensure**

Recommendation:

- Modify frequency of HMO re-licensure with the DOI. The current filing requirement is annual, but we recommend that the frequency should be every two or more years. The current filing requirement is a burdensome process in terms of time and effort required.
- Also, HMO licensure renewal reviews information that does not change so rapidly that it would be missed in with biannual processes.
- Additionally, the information would be captured in greater detail within the annual audited statement required by the DOI.

- **Amendments to 211 CMR 71.00: Medicare Supplement Insurance**

- Extensive regulation of Medicare supplement products with drug benefits is no longer necessary.
 - Many Part D drug benefit plans are available to all Medicare Eligible individuals in Massachusetts.
 - The Part D drug plans are also subsidized by the federal government and there are many affordable plans in the Massachusetts.
 - Medicare Supplement plans with drug plans have been closed to new entrants since 1/1/2006.

Recommendations (in order of preference) for Medicare supplement products with drugs:

- Remove these products from the rate filing and rate hearing process;
- Change the filing process to be file and use;
- Remove the 10% hearing trigger for these products; **or**
- Increase the hearing trigger to 20% rate increase.

- **Amendments to 105 CMR 128.00:** Department of Public Health/Office of Patient Protection – Managed Care Reform (MCRA)

Recommendation:

The Department of Public Health (DPH) should aim, at a minimum, for consistency with NCQA, the gold standard for health plan accreditation.

Inconsistencies between MCRA and NCQA:

- Under MCRA (law and regulation), carrier acknowledgment of receipt of a grievance is required within 15 days. This is not required under NCQA or ERISA.
- Under MCRA, grievances received by telephone must be reduced to writing and mailed to the member by the carrier within 48 hours. Neither NCQA nor ERISA require this.
- Under MCRA, the law indicates turnaround times may be extended “by mutual consent of the insured and the carrier.” However, the regulation is more stringent and requires the consent to be in writing by both parties. ERISA/NCQA doesn’t require these extensions to be in writing.

- **Other regulatory issues**

- Carriers are required to report membership to a number of different state agencies (e.g., DOI, DHCFP, etc.) in a variety of formats (e.g., Massachusetts residents only vs. out-of-state members OR self-insured vs. fully insured).

Recommendation:

- To avoid unnecessary costly duplication, we would request that member reporting be limited to one central state agency in a uniformly prescribed format.

- DOI annual and triennial pricing and reserve audits should be undertaken less frequently. These reviews are burdensome processes in terms of time and effort required and that the issues that both of these respective reviews are monitoring do not change so frequently if the processes were implemented biannually rather than annually.

- New product development and filing/approval requirements (streamline process to be file and use as opposed to file and approve within certain parameters)
- Provider reimbursement filing/approval requirements (streamline process to be file and use as opposed to file and approve within certain parameters)
- As the health care community collectively discusses preventive care and cost containment, one of the issues we face is that we are limited to one year contracts with insured customers.

Recommendation:

- We recommend changing the DOI's directive to HMOs that all premium contracts with a multi-year rate guarantee be filed for approval. This change would allow needed flexibility in our contracting with fully insured customers and allow for longer contracts and better partnership between employer and carrier by way of investment in activities and interventions that have a longer pay-off.
- Amend state credentialing of physicians to every 3 years to synchronize with national accreditation standards.

AIM Addendum: Last Update March 29, 2010

Overview:

As a result of legislative action taken during the last session, Massachusetts employers now face new burdens and costs as direct result of the passage of the "Combined Reporting" tax changes in addition to the so called "Global Warming Solutions Act". Now employers face onerous, unnecessary and costly rules and regulations authorized under these statutes. Below, AIM highlights specific areas of concern with each piece of legislation in addition to providing recommendations for curbing the negative impacts of the rules.

Combined Reporting:

While AIM opposed enactment of combined reporting, we recognized that there was consensus among the leaders on Beacon Hill to advance this proposal. In that context, AIM recommended seven changes to H.4499 to make it fairer, more predictable, and less onerous for the business community. Key elements to AIM's original technical corrections bill to the combined reporting law are below. Most recently, AIM updated the technical corrections bill.