January 13, 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, D. C. 20515

The Honorable Harry Reid
Senate Majority Leader
United States Senate
Washington, D.C. 20510

Dear Speaker Pelosi and Leader Reid:

Employers are united with the Members of Congress in both parties who understand that ever-rising health care costs are threatening the viability of U.S. businesses and job security for millions of Americans. Collectively, America's employers provide health coverage to over 170 million Americans, and we have a major stake in achieving meaningful reform of our health care system this year. We want to help to enact legislation that will:

- Bend the cost curve for the overall health care system
- Improve the long-term fiscal outlook for federal and state governments
- Produce greater quality and value in our health care system
- Help facilitate our long term economic recovery

But not **any** health reform will do. The final legislative framework must get the fundamentals of health reform right.

We, therefore, urge you to not merge the House and Senate passed bills. Health care reform is not only about changing the rules for our health care system, it also results in restructuring one-sixth of our economy – and comes in the midst of historic economic turmoil. At no time in this long debate has it been more important than now to take a fresh look to make sure that health reform will achieve its intended goals. In our view, the most important goals that negotiators should focus on are strengthening the employment-based system, achieving meaningful reductions in the rate of growth in healthcare costs and significantly improving its quality.

Legislation that does not bend the cost curve for both public and private health plans is not accomplishing its goal and contradicts the strong bipartisan consensus that has driven the case for health care reform. Legislation limiting the flexibility and innovation in the private sector to improve health care quality would erode parts of the system that are now working.

Therefore, we strongly believe and have consistently stated that employer mandates will increase employer and employee costs and limit the flexibility and innovation that serves as the foundation of the employer-sponsored health care system. Without this flexibility, employers will be prevented from designing and offering health plans that best reflect the needs of their workforce and make health coverage as affordable as possible for their employees.

Additionally, the final legislation must support the flexibility that ERISA provides in the offering of employer-sponsored health insurance coverage. The existing rules and regulations governing the administration of these benefit plans provide the right level of flexibility so that employers can develop the coverage that fits the changing needs of their workforce. Allowing states to require employers to comply with varying state or local mandates would further raise employer costs, stifle innovation in employer-sponsored coverage and result in unequal benefits for employees. We should not disrupt the delicate balance that ERISA's regulatory framework provides – or risk hurting those who are highly satisfied with the health care coverage that they currently receive.

Finally, we need to be sure that any legislation maintains supportive tax policy and not undermine employer-sponsored coverage or add to its costs. In particular, excise taxes on so-called "high cost" plans without adequate recognition of demographic or geographic disparities or the actuarial value of benefits, new federal premium taxes, and the taxation of retiree drug subsidies are inconsistent with making health care more affordable. Additionally, we are deeply concerned about reports of "carving-out" union negotiated plans because this merely exacerbates and concentrates the problem on all other employer-sponsored plans and the employees and families in them. We also urge that the final bill includes a clear safe harbor rule for high deductible health plan coverage so that there is no uncertainly about the ability of these important plans to continue to be offered alongside health savings accounts (HSAs). Similarly, we urge that any limits on contributions to flexible spending accounts (FSAs) be increased and then indexed to the medical component of the CPI to minimize any possible adverse impact of the limits in both bills to those with high unreimbursed medical expenses.

We do look forward to continuing to work with you on achieving responsible and practical health care reform legislation and on getting the fundamentals right for all Americans. Working together, we can achieve positive reform that bends the cost curve and expands access and quality for all Americans.

Sincerely

American Benefits Council
Corporate Health Care Coalition
The ERISA Industry Committee
HR Policy Association
National Association of Manufacturers
National Association of Wholesaler-Distributors
National Business Group on Health
National Retail Federation
National Rural Electric Cooperative Association
U.S. Chamber of Commerce