



AFL-CIO

November 2, 2009

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

Re: Retiree Health Coverage

Dear Madam Speaker:

We are writing to express our serious concerns regarding two provisions included in H.R. 3200, The Affordable Health Care for America Act, and urge that they not be included in legislation approved by Congress. Section 110 would curtail the ability to change retiree health coverage and Section 534 would change the tax treatment of subsidies provided to employers who provide retiree drug coverage. Both provisions would likely have the unintended effect of discouraging the provision of employer-sponsored retiree health coverage, thereby undermining one of the goals of health reform legislation and placing the cost and burden of providing this vital coverage onto the federal government.

Section 110

Retiree health coverage has long been the subject of collective bargaining and is an important part of the overall package of benefits and compensation negotiated between labor and management. By severely restricting the ability to modify retiree health coverage this provision limits the flexibility that parties have during negotiations. In some situations, existing labor agreements already contain cost sharing arrangements that would be unilaterally overridden by this provision.

This restriction could unintentionally result in employers dropping sponsorship of retiree health coverage altogether to avoid future restrictions. Rising health costs and financial accounting rules have resulted in a steady erosion of employer-sponsored retiree coverage; and no doubt this decline is the motivation for this provision. It would be disastrous for millions of Americans still covered by retiree health plans to see those plans severely limited or eliminated altogether as employers seek to avoid being locked into a particular benefit in perpetuity.

Section 534

This provision of the bill would cease the current tax excludability of the 28% subsidy provided to employers who continue to provide prescription drug coverage to their retirees. The \$3 billion

in federal tax revenue estimated to be raised from this provision is highly unlikely to be realized. The current tax treatment was included in the Medicare Modernization Act of 2003 precisely to encourage employers to continue sponsoring drug coverage -- not only helping to preserve this important benefit, but also resulting in savings to the federal government by avoiding the necessity of many retirees to obtain Medicare Part D coverage. If only the tax revenue to be collected is calculated, but not also the federal outlays to provide the comparable benefit, then the actual cost to the government is not being accurately considered.

Moreover, Congress must consider the impact of this provision in the context of a reformed health system, as opposed to the current system. Other features of H.R. 3200, including the aforementioned limits on the ability to modify retiree health coverage, could well lead to an unintended and precipitous decline in some of the most comprehensive health coverage protection for retirees available today.

Finally, Congress has not considered at all the negative impact, required under Financial Accounting Standard 106, on the financial statements of companies that currently provide retiree health coverage. Regardless of the ultimate effective dates of Sections 110 and 534, accounting rules dictate that immediately upon being signed into law, these provisions would substantially increase the FAS 106 liability for the very companies providing the most comprehensive coverage to current and future retirees. In the current economic environment, this would be particularly ill-advised and disruptive.

Health care reform must be about stabilizing and expanding the employer-sponsored health benefits system. These two provisions would unnecessarily destabilize employer sponsored benefits for millions of retirees at a time of unprecedented changes in health coverage. Whatever differences the undersigned organizations may have on other aspects of pending health care reform legislation, on these two matters both labor and management are in full agreement. We respectfully urge that both these provisions be deleted from the legislation under consideration.

Sincerely,



Diann Howland
Vice President, Legislative Affairs
American Benefits Council



William Samuel
Director, Department of Legislation
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