

January 13, 2010

The Honorable Harry Reid
Senate Majority Leader
522 Hart Senate Office Bldg
Washington, DC 20510

Dear Majority Leader Reid,

As Congress works to reconcile the health care reform bills passed by the House of Representatives and the Senate, we urge you to support the provisions in the Senate's Patient Protection and Affordability Act that enable employers to provide meaningful financial incentives for healthy behavioral choices. The Senate's wellness provisions are the product of thoughtful bipartisan negotiations. Members of both parties have championed these provisions for their ability to expand choices for workers, empower individual decision making, promote wellness, and reduce health care costs.

According to some estimates, individual behavior accounts for as much as 70 percent of all health care costs. Given the impact that these choices have on health care costs, it is critical that the law allow incentives to reward workers who make healthy lifestyle choices. Under the Health Insurance Portability and Accessibility Act of 1996 (HIPAA), employers are already permitted to establish voluntary wellness programs that include financial incentives for healthy behavior. These programs are subject to strict nondiscrimination rules that protect workers from being penalized for health conditions beyond their personal control. They have proven quite successful at reducing costs and increasing wellness for employees and their families. Current law, however, limits these financial rewards and incentives to 20 percent of the cost of employee-only coverage.

The Senate's legislation affirms HIPAA's nondiscrimination rules, codifying existing requirements for wellness programs that base rewards on satisfying a health related factor. The Senate bill also increases the permissible reward to 30 percent of the cost of employee-only coverage, and authorizes the Secretary of Health and Human Services to further increase allowable rewards to 50 percent of employee only coverage. By increasing the premium discounts that employers may use to reward employees for their participation, the Senate bill will further enable employers to promote wellness among workers and their families, while reducing health care costs.

Thousands of American workers already benefit from employer-sponsored voluntary wellness programs. The experience with these programs has been an overwhelmingly positive one. Unfortunately, those who wish to undermine these innovative employee benefits continue to make a number of inaccurate claims about their operation. As Congress debates the merits of the Senate-passed wellness provisions, it is important that we respond to certain of these recurring criticisms.

First, the Senate provisions do not authorize discrimination against anybody.

The bipartisan Senate wellness provisions codify HIPAA's existing nondiscrimination rules that clearly prohibit group health plans and health insurance issuers from denying – or charging more for – coverage based on an individual's health status. HIPAA's nondiscrimination protections require that: voluntary wellness programs be reasonably designed to promote health or prevent disease; eligible employees have the opportunity to qualify for the reward at least annually; the full reward be made available to all similarly situated individuals; and a reasonable alternative standard or waiver must be available to individuals for whom it is unreasonably difficult to satisfy the otherwise applicable standard due to a medical condition.

Second, wellness programs are not a threat to patient privacy.

Wellness programs are already required under HIPAA to abide by strict patient privacy requirements. The outside entities that contract with employers to administer these programs must have comprehensive measures in place that ensure the privacy of employees and their families. These existing privacy and confidentiality protections would in no way be diminished or lessened by the Senate provisions.

Our health care system is on an unsustainable trajectory, and absent meaningful reform, access to care and patient health are in jeopardy. We strongly encourage reforms that realign incentives, improve patient health, empower individuals, and reduce costs. In advancing these goals, we appreciate your consideration and support for the Senate provisions that codify and expand the authority of employers to offer workplace wellness programs.

Thank you for your attention to this matter and we look forward to continuing to work with you.

Sincerely,

American Benefits Council
Business Roundtable
Food Marketing Institute
HR Policy Association
National Association of Manufacturers
National Business Group on Health
National Retail Federation
Retail Industry Leaders Association
Society for Human Resource Management
The ERISA Industry Committee
The National Association of Health Underwriters
U.S. Chamber of Commerce

cc: The Honorable Tom Harkin

January 13, 2010

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

Dear Madame Speaker,

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cc:

The Honorable George Miller
The Honorable Charles Rangel
The Honorable Henry Waxman