September 22, 2009

The Honorable Max Baucus
Chairman
United States Senate Committee on Finance
511 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Charles Grassley
Ranking Member
United States Senate Committee on Finance
135 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Baucus and Ranking Member Grassley:

Like you and President Obama, we believe that the fundamental goal of health care reform must be to reduce health care costs and make coverage more affordable for all Americans. Bending the cost curve requires a focus beyond just how to "pay for" health care reform, but also to enact policies focused on managing costs overall and ensuring affordability for every patient, regardless of the source of their coverage.

To that end, we, the undersigned, are greatly concerned about two provisions in the Chairman's mark that we believe will make coverage more costly for employers and employees who are already bearing a significant share of the nation's health costs:

The Proposed Tax on High-Value Health Insurance Plans

The proposal raises a number of significant questions and concerns for employers and their employees. While the tax is aimed at health insurance companies, it is clear that it will ultimately be passed on to the individuals covered and that it would ultimately be administered by and add to costs borne by the employer and the beneficiary. In addition, the tax will unfairly burden plans operating in high cost states, or that have participants whose health risk status drives costs above average. For example, plans that cover pre-Medicare retirees and more mature workforces can cost 25 percent or more than plans covering a younger population as a result of age-related health needs. Because the tax would not distinguish among types of health insurance coverage, it could effectively discourage companies from offering good, comprehensive health insurance coverage in order to reduce the cost of their plans below the cap.

The thresholds proposed by the framework would be indexed for inflation on the basis of the consumer price index/urban, rather than inflation in the health care sector, which runs significantly higher. Importantly, the actual cost increases for health insurance plans traditionally rise even faster than medical inflation. As a result, many plans that currently do not exceed the thresholds would quickly find themselves subject to the 35% excise tax despite their greatest efforts to control costs. In addition, the tax will be applied to not only the value of the health care plans, but also dental, vision, flexible spending and prescription drug plans, driving many over the threshold. The thresholds also have only limited protection for plans operating in high cost areas, as the geographic adjustment, which would be provided in 17 high cost states, would phase out over three years.

The reality of this provision is that a tax on the value of health insurance plans over a certain value will ultimately be passed on to employees through decreased wages, decreased benefits, or increased employee premiums, and thus has the same effect as capping the employee exclusion.

Eliminating the Exclusion for the Employer Medicare Part D subsidy

Changing the exclusion for the part D subsidy will negatively impact employers and their retirees already facing unsustainable health care cost growth, potentially leaving the employer with no alternative other than to consider dropping retiree prescription drug coverage altogether. And retirees would likely enter the Medicare Part D program disrupting the health care coverage on which they have depended and grown accustomed.

The majority of companies receiving subsidies under Part D represent companies that had borne the cost of providing retiree drug coverage for decades, and this subsidy assists them in continuing those benefits. The federal government benefits by this as the spending is limited to only the subsidy, rather than having to provide 100% of the benefit costs to those eligible for Part D, but who continue to be covered by their employer.

The Medicare retiree drug subsidy was enacted to assist employers in retaining responsibility for a substantial benefit – providing prescription drug coverage for their retirees. From the onset, the Part D subsidy was excluded from taxable income and the subsidy was appropriately lessened to take into account the tax savings to those companies receiving the subsidy. For many large employers with sizeable retiree populations, the immediate impact of eliminating the exclusion is in the hundreds of millions of dollars each year. For retirees this represents a significant impact to the benefits they count on.

Finally, these provisions cannot be looked at in isolation of other proposed policies that either increase costs directly or shift additional cost burden ultimately onto the users and payers of health care who are already weighed down by escalating health care costs. We strongly encourage Congress to enact policies that truly "bend the cost curve" rather than establishing "band-aid" provisions that merely shift more costs to the private employer-based system and the Americans who depend on it. The above mentioned provisions are not a long-term solution to the health care cost crisis we face in our country.

We look forward to working with you to make meaningful changes that will make a difference for all Americans.

Sincerely,

American Benefits Council

Corporate Health Care Coalition

Employers' Coalition on Medicare

The ERISA Industry Committee

HR Policy Association

National Association of Manufacturers

National Coalition on Benefits

National Retail Federation

Pacific Business Group on Health

U.S. Chamber of Commerce