

# United States Senate

WASHINGTON, DC 20510

## Real Choice versus False Claims

September 29, 2009

Dear Finance Colleague:

In the next few days, I will be offering my Free Choice amendment to ensure all workers have a choice of at least two health plans (Wyden Amendment C1). The Free Choice amendment also gives all employers the choice to provide coverage for their workers through their local health insurance exchange. Along with economists of all political persuasions, I believe that injecting the market forces of choice and competition into the health care system will lower costs and improve quality for all Americans.

Yesterday, the American Benefits Council sent a letter to the Finance Committee that is so riddled with false claims about the Free Choice proposal that I must respond to set the record straight. What is especially troubling about the Benefits Council's letter is that a representative of the Council met with my staff and the Finance Committee's staff to discuss the proposal prior to the release of their September 28, 2009 Letter.

Despite having received an explanation of the Free Choice proposal both in writing and in person, the Council's letter nevertheless contains several false claims about the amendment.

**Benefits Council Claim:** The Council claims the Free Choice amendment is "the Healthy Americans Act Amendment." The Healthy Americans Act (S. 391) is a comprehensive health reform proposal I sponsored with a bipartisan group of 14 other Senators. Nowhere in the Free Choice amendment does it mention the Healthy Americans Act.

**What Free Choice Really Does** The Free Choice proposal is a much narrower proposal focused on ensuring all workers and their families have a choice of health plans. Unlike the bill I sponsored, it would import the principle of choice into the existing employer based system, *while strengthening that system*, by giving workers choices either of employer plans or the option to go to the exchange, with the employer deciding how they get that choice.

**Benefits Council Claim:** The Council claims "employers would be required to both 'play and pay' for those employees who opt out of their employer-sponsored plan."

**What Free Choice Really Does:** There is no "play" requirement for any employer. As under current law, an employer is not required to sponsor coverage for its workers (unless the employer has agreed through collective bargaining to do so). In fact, Free Choice gives employers who choose it an alternative to sponsoring coverage – the employer can bring its entire group to the Exchange and get a discount.

There is also no “pay” requirement under Free Choice. Employers that want to continue offering coverage have two choices: 1) offer their employees a choice of employer plans; or 2) give their workers the choice to choose coverage in the Exchange. The Council’s so-called “play and pay” scenario would only occur if the employer *itself chose* to both sponsor a plan and to give workers access to the Exchange.

**Benefits Council Claim:** The Council claims the amendment has “mandatory opt out provisions” for employees and that these provisions “would be highly destabilizing for employer-sponsored coverage.”

**What Free Choice Really Does:** Contrary to the Council’s claims, the Free Choice proposal does not include any mandatory opt-out of employer plans. The only way the employee can have a choice other than employer-sponsored coverage is if the employer decides not to offer its workers a choice of employer plans. Under Free Choice, there is no employee opt out of an employer plan unless the employer first makes a voluntary *decision* not to offer its workers any choice.

The Council claim that Free Choice would destabilize employer-sponsored coverage is directly contradicted by the analysis of the independent Congressional Budget Office (CBO). CBO found “[t]here would not be substantial effects on the total number of people with insurance coverage or the sources of that coverage, relative to the Chairman’s mark.” In plain English, that means that Free Choice *would not take workers out of employer-sponsored coverage or make employer sponsored coverage any less common.*

I am concerned that the Benefits Council put out a letter about my Free Choice amendment containing so many statements that they knew to be false. Let’s have a real debate about real choice and not let false claims prevent members from making the right decision on my amendment.

Sincerely,

A handwritten signature in black ink that reads "Ron Wyden". The signature is written in a cursive, slightly slanted style.

RON WYDEN