



March 16, 2010

The Honorable Harry Reid
Senate Majority Leader
U.S. Senate
Washington, D.C. 20510

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

The Honorable Mitch McConnell
Senate Minority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable John Boehner
House Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Senate Majority Leader Reid, House Speaker Pelosi, Senate Minority Leader McConnell and House Minority Leader Boehner:

As Congress prepares for a final vote on health reform legislation, I am writing on behalf of the more than 250,000 members of the Society for Human Resource Management (SHRM) to reiterate our support for effective, comprehensive health care reforms.

SHRM continues to advocate for legislation that lowers costs; strengthens the employer-based system; improves the quality of care; and offers access to affordable coverage to all Americans. However, while the current legislation contains some positive provisions, SHRM believes that the final bill as constructed fails to adequately meet these critical reform objectives. As a result, SHRM cannot support the legislation in its current form.

SHRM is the world's largest HR management association representing human resource professionals in every industry, sector, state and congressional district in America. Our members understand the importance of health care reform and its impact on every organization's productivity, financial stability, and ability to attract and retain top talent.

To achieve this goal, SHRM believes a final bill should reflect the following key elements:

Employer Responsibilities – Requirements on employer-sponsored health care coverage limit employer flexibility and innovation. Such requirements can lead many employers to simply “pay” rather than offer coverage, leaving their employees without the coverage to which they have come to rely. SHRM urges you to allow for maximum employer flexibility to design benefit plans that meet the specific needs of varying workforces by: 1) omitting the “free choice” provisions; 2) limiting the employers' responsibilities to only full-time employees; and 3) lowering the penalties on employers.

ERISA Structure for Employer-Sponsored Coverage – The Employee Retirement Income Security Act (ERISA) has provided employers and employees with a workable federal regulatory framework for employee benefits, thereby allowing employers to offer a uniform set of benefits to employees throughout the United States. The flexibility and certainty of the ERISA framework has been essential to the success of the employer-based system and should be maintained. SHRM supports inclusion of the Senate’s “grandfathering” provision, which does not limit the continuation of plans in effect at the time of enactment.

Workplace Wellness Incentives – Employer investments in worksite wellness programs can help reduce overall health care costs for employers and employees. Such programs also generate savings for our health care system as a whole. Evidence suggests that incentives, such as premium discounts, encourage employee participation in wellness programs. Therefore, we support Senate provisions that permit employers to discount up to 30 percent of the premium or cost-sharing requirements for participants in a workplace wellness program. We also urge you to include the Senate provisions that codify current law protections in the Health Insurance Portability and Accountability Act (HIPAA) regulations.

Flexible Spending Accounts (FSAs) – FSAs encourage individual responsibility and allow consumers to take an active role in managing health-related expenses. Limiting contributions to these spending accounts will raise health care costs for unreimbursed health care expenses. If a cap must be part of a health reform package, we urge you to increase the contribution above the proposed \$2,500 limit.

High Cost Plan Excise Tax – A significant number of public and private employer plans will likely exceed the Senate’s 40 percent excise tax on so-called high-cost plans, not because they are overly generous but simply because of health care inflation, geographic variations, and the age of the workforce. Neither employers nor employees can afford these added health care costs. For these reasons, SHRM believes the tax thresholds must be increased. Additionally, we urge you not to count contributions to spending accounts or supplemental benefits such as vision, dental and wellness plans toward the threshold.

Retiree Drug Subsidies – The excludability of the 28 percent drug subsidy for employers provided through the Medicare Modernization Act of 2003 was included to encourage employers to continue sponsoring prescription drug coverage for Medicare-eligible retirees, thereby reducing the government’s cost of the Part D program. Altering the tax treatment of this subsidy would come at a significant cost to those organizations offering the most comprehensive coverage to current and future retirees. Therefore, we urge you to omit these provisions from a final health care reform bill.

Medical Liability Reform – Medical liability lawsuits contribute to rising health care costs with “defensive” medical practices and increased liability insurance costs. SHRM believes that meaningful reform of the medical liability system is an important component of cost containment and should be included in a final reform package.

Transparency and Payment Reforms – For individuals to make better informed decisions about the cost-effectiveness of health care services, they must have access to provider performance measures and outcomes. The Senate bill includes only modest provisions that,

to some degree, would improve quality, promote transparency and access to health information, and reform the current payment system. SHRM believes these provisions should be strengthened significantly in a final bill to reward efficient care.

SHRM remains committed to helping Congress enact responsible and effective health care reforms as outlined above. We commend you and your colleagues for your hard work to improve our nation's health care system, and we look forward to working with you to achieve this goal.

Sincerely,

/S/

Laurence G. O'Neil

President & CEO

Society for Human Resource Management

cc: Members of the U.S. Senate
Members of the U.S. House of Representatives