

# National Coalition on

# BENEFITS

July 7, 2008

The Honorable Ron Wyden  
United States Senate  
Washington, DC 20510

The Honorable Robert Bennett  
United States Senate  
Washington, DC 20510

Dear Senators Wyden and Bennett:

We are writing as members of the National Coalition on Benefits (NCB) to express our opposition to the core provisions of the Healthy Americans Act, S. 334 (as amended). We believe that S. 334 would have a major adverse impact on employer-sponsored health coverage.

The NCB is a broad-based coalition of over 150 employers and trade associations representing companies that voluntarily provide health, retirement and other valuable benefits to more than 130 million Americans who are covered by employer-sponsored health plans which are governed under the framework established by the 1974 Employee Retirement Income Security Act (ERISA). The NCB appreciates and joins your commitment to the need for reform. For the reasons set out below, we do not believe the path you have outlined will lead to the more efficient and effective system we both seek.

For many years, the American people have sent two clear messages about America's healthcare system. First, Americans want to see change and improvements in both the cost of and access to health care coverage. Second, Americans highly value the health benefits they receive through their employers.

We do need changes and improvements in our health care system. Comprehensive health care reform is essential for the long-term vitality of the U.S. economy. However, any change must not erode those parts of the health care system that are working. The core provisions of the Healthy Americans Act would cause large scale disruption in the source, financing, and regulation of the employer-sponsored health coverage that now serves most Americans. This disruption for the majority of Americans who have coverage today through their employer will make it more difficult to achieve our common goal of addressing the needs of the 47 million Americans who lack health insurance coverage entirely.

Moreover, widespread and sudden disruption in employer-sponsored health coverage is likely to harm employer-employee relations because most employees have a longstanding expectation that their employer will be their primary source for health coverage. A survey of people with employer-sponsored health coverage released in

June by the Kaiser Family Foundation found that between 63 and 81% felt that getting coverage on their own rather than through their employer would be harder. Employees will continue to hold this expectation even if legislation is enacted that sharply diminishes employer effectiveness or engagement in meeting their employees' health coverage needs.

### Employers Drive Quality, Affordable Health Coverage

NCB members support the federal uniformity standard under ERISA (also known as the "preemption" standard) as a critical foundation to our health care system. It allows employers to offer uniform benefits to their employees, retirees and families without being subject to the confusing patchwork of mandates, restrictions and costly rules that vary from state to state. This is vital not only for large and mid-size employers operating in multiple jurisdictions, but also for small employers operating within a single state or locality who rely upon the predictability of ERISA's rules to help make possible the sponsorship of affordable, quality health benefits for their employees.

The federal ERISA framework also makes it possible for employers to drive value-based strategies that improve the entire health care system by allowing employers to apply leading edge, innovative practices on a consistent, nationwide basis. These employer-led practices have directly contributed to improved employee wellness, better management of chronic diseases, tangible incentives for high performing health care providers and many other vitally important strategies that translate into better health care for employees and their families. These innovations have been advanced by employers who voluntarily sponsor health coverage and who play an active role in improving the quality and efficiency of the health care products and services for their employees.

Without ERISA's single, uniform federal framework, the effective introduction of these value-based strategies would not be possible. Moreover, employer efforts to rapidly introduce future reforms, including health information technology, e-prescribing, quality reforms, and accountability and disclosure measures, will all critically depend on a nationally uniform system. A state-by-state approach makes these reforms virtually impossible to achieve.

Our coalition supports the following principles:

- ERISA's federal framework must be maintained;
- Employers' ability to offer and maintain uniform benefit plans across state and local lines must be preserved;
- Employers must continue to have the flexibility to determine how to best meet the needs of their employees and retirees;
- Reforms to the current health and retirement system must continue ERISA's goals of promoting simplicity and predictability; and
- Federal initiatives should not permit states to adversely impact ERISA.

### Healthy Americans Act Undermines Employer Coverage

The Healthy Americans Act fundamentally alters the primary roles and incentives for employers to serve as sponsors of uniform benefit plans for their employees. Under S.334, employers would *primarily* serve as the major revenue source for the differing state or regional health plan options offered to their employees. At best, any remaining

employer-sponsored plans would become possible back-up choices for those employees who chose not to enroll in one of the state-sponsored plans.

While an amendment permits employers to continue offering health plans to their employees -- subject to approval by each of the state agencies where their employees reside -- we expect that the source of most health coverage would soon be under the new system of state-sponsored health insurance choices, not through employers. The Congressional Budget Office and the Joint Committee on Taxation appear to have reached a similar conclusion in their May 1, 2008 analysis of the legislation.

In addition, employers that choose to continue offering health coverage are likely to face extraordinary challenges, including the inability to offer uniform benefit plans or to administer these plans under a consistent regulatory framework. This is because the legislation also includes sweeping authority for states to obtain waivers of any federal laws or regulations related to health coverage. This would lead to state-by-state, or even county or city, regulation of employer-sponsored plans. This is unworkable for employers with a nationwide or multi-state workforce. The legislation also includes a provision that removes the state-sponsored plans and their enrollees from the definition of employer-sponsored coverage. As a result, these plans would not be subject to the ERISA framework. Therefore, the state-sponsored plans could not be options for employers that seek to provide uniform benefits to their employees and would also deny employees the uniform rights they now have under ERISA.

Finally, the bill eliminates the current law tax deduction for employer contributions to health coverage for employees, except for the "fair share" contributions that employers would be mandated to make to the state agencies. The bill also ends the income exclusion for employees as it applies today. This directly penalizes employer-sponsored coverage and would cause most employers to cease sponsoring health plans.

Combined with the major changes in the state-by-state sponsorship and regulation of health coverage, we conclude that the Healthy Americans Act would significantly undermine employer-based health coverage.

In summary, we believe that a sensible, consensus approach to health reform should build on our voluntary employer-based health care system and not undermine the essential role of employers in our health care system. Central to this is the current ERISA standard which provides a single, uniform federal framework and makes it possible for employers to offer health benefits to millions of employees, which they highly value and depend on.

Thank you for your commitment to health reform and consideration of our views on your legislation. We look forward to working with you on these vitally important issues to all Americans. If you have any questions or would like to discuss these issues further, please contact Martin Reiser, the Chairman of the NCB at (202) 414-1291.

Sincerely,

The National Coalition on Benefits

For additional information on the National Coalition on Benefits, including a list of its members, please go to [www.coalitiononbenefits.org](http://www.coalitiononbenefits.org)