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ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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October 22, 2010

The Honorable Kathleen Sebelius  
Secretary of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Sebelius:

We write to you today to request information on how the Department of Health and Human Services (HHS) will implement the Patient Protection and Affordable Care Act without causing companies providing low-cost health plans to drop health insurance coverage. As reported by *USA Today* on October 6, 2010, HHS recently granted waivers to 30 companies and organizations so that they would not be required to raise the minimum annual benefit included in their health plans. As stated in the article, failing to grant the exemptions might lead employers to “choose instead to drop health insurance altogether.”

This is not the first time we have learned that, when faced with the new costs, regulations and mandates in the health care law, companies will give serious consideration to simply ending their employee health care coverage. As you may recall, the law’s change in the treatment of retiree drug plans required many companies to publicly disclose new costs. When the Democratic Majority of this Committee investigated these companies for these actions, it discovered numerous internal company documents proving that these companies had realized it was cheaper to end health care coverage altogether.

In their efforts to pass the health care law by any means necessary, leaders of the Democratic Majority in both the House and Senate and even the President of the United States constantly assured the American people that if they liked their coverage they could keep it. We are therefore deeply troubled that 30 more companies were forced to consider dropping coverage as a result of the law. These are not obscure companies either, but major employers and notable American brands like the McDonald’s Corporation, which according to the October 6 article in

*USA Today* needed a waiver to make it possible for it to continue providing coverage to over one hundred thousand employees.

News reports have also indicated that the issue is not merely whether HHS has exempted certain companies from new requirements so they can continue offering low-cost health plans, but also whether HHS will exempt the insurers that provide those plans from meeting new medical-loss ratios required by the health care law. *The Wall Street Journal* reported on September 30, 2010, that groups have complained that the ratio is “unrealistic for mini-med plans because of high administrative costs owing to frequent worker turnover, combined with relatively low spending on claims.”


In light of these reports we ask that you provide us with responses to the following questions and requests:

- According to *USA Today*, HHS has granted waivers so that “thirty companies and organizations... won’t be required to raise the minimum annual benefit included in low-cost health plans.” What companies or organizations were granted this waiver, and how many employees will this affect? Please provide a copy of both the waivers and a detailed description of the effects of the waivers.
- Have any companies or organizations asked for the waiver discussed in the *USA Today* article but not been granted one? If so, what companies or organizations were denied this waiver and why?
- As mentioned previously, according to *The Wall Street Journal* the issue is not merely whether the companies are granted waivers, but whether the insurers that offer these plans will be able to comply with new medical-loss ratios. Has HHS been contacted by any insurers to date about such a waiver to the ratio requirement? If so, please provide the names of the insurance companies that have done so. Has HHS granted any waivers of any kind to certain insurers, and if so what did those waivers entail?
- Exempting these employers from coverage requirements and penalties will likely affect the cost estimates of the health care law. Has HHS calculated the effect of the waivers on the reported cost of the law? Please provide us with any information HHS holds on each exempted plan so that the impact of these exemptions may be examined.

The implementation and the effects of the health care law are of the utmost concern to Members of Congress and, most importantly, the American people. Given the urgency of any issue that could result in Americans losing their health care coverage, we request you provide answers to these questions within 14 days of the date of this letter.


If you have any questions, please contact the Minority Committee staff at (202) 225-3641.

Sincerely,



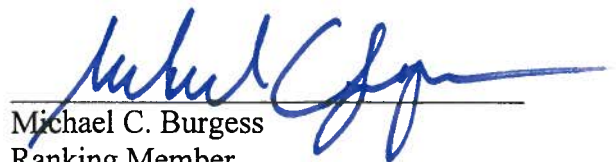
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Joe Barton  
Ranking Member



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John Shimkus  
Ranking Member  
Subcommittee on Health



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Michael C. Burgess  
Ranking Member  
Subcommittee on Oversight and Investigations

cc: The Honorable Henry A. Waxman, Chairman

The Honorable Bart Stupak, Chairman  
Subcommittee on Oversight and Investigations

The Honorable Frank Pallone, Jr., Chairman  
Subcommittee on Health