

September 22, 2009

The Honorable Max Baucus
Chairman, Senate Finance Committee
United States Senator
Washington, DC 20510

Dear Chairman Baucus:

On behalf of the National Women's Law Center, we are grateful for your continued commitment to enacting health care reform this year. Today, millions of women depend on a health care system that is failing them. Women are ready for health reform that addresses their specific health care needs and the challenges they face in getting care.

Though the America's Healthy Future Act needs to be significantly strengthened in key respects, we are pleased that it meets some of these needs and contains some important promises. Specifically:

- The Chairman's mark establishes mechanisms through which individuals can ultimately get insurance coverage. With eighteen percent of women in the United States without health insurance and more than half of all women reporting problems securing access to health care because of cost, these new mechanisms, including State Exchanges and the addition of eleven million low-income individuals to the Medicaid program, are an important step forward.
- The bill ends discrimination that women face in the individual market by eliminating gender rating and pre-existing condition exclusions. As you know, insurers in most states are allowed to consider sex when setting premium rates in the individual market, resulting in women being charged more than men for the exact same coverage, and typically exclude coverage for certain pre-existing conditions, including Cesarean sections, from the coverage available to women. The America's Healthy Future Act takes steps to address this unfair treatment and will make insurance coverage more accessible and affordable for women.
- The Chairman's mark ensures that health plans cover certain health care needs, including maternity coverage. It is difficult and costly for women to find health insurance that covers maternity care; in fact, the vast majority of individual market health insurance policies do not cover maternity care at all. The America's Healthy Future Act requirement that health plans cover maternity care is an important protection against the discrimination women have long faced.
- The bill is consistent with the principle that health reform be done in a way that is fiscally responsible by not adding to the deficit.

As the Committee considers America's Healthy Future Act, we urge you to protect these meaningful advances toward reforming our nation's health care system by opposing any weakening amendments.

Unfortunately, we remain seriously concerned that key portions of the bill fail to adequately meet women's needs. Specifically:

- We are gravely concerned that the bill fails to provide adequate supports to make coverage affordable for those who need it most. For example, under the bill, a family of three making \$27,500 per year could face premiums and out-of-pocket costs totaling approximately 22% of their income. A family of three earning \$55,000 could face health costs reaching a whopping one-third of their income. Yet despite facing such high costs, these families would be deemed to have affordable health care and would not escape the penalties of the individual mandate. We urge the Committee to adopt amendments that would devote additional funds to increasing subsidies and providing cost-sharing protections for lower-income individuals.
- We are concerned that, although the bill expands Medicaid eligibility to a substantial number of low-income individuals, the extension of merely the “bronze plan” to this new population will provide only limited benefits and high-cost sharing that are inappropriate for this population.
- To protect all women from discrimination, the insurance reforms included in America's Healthy Future Act, such as those that would permit premium rating only on the basis of age, family size, geography and tobacco use, must be extended to the entire group market—not just the individual and small group markets. Failing to extend these important insurance market reforms to the entire group market would ultimately penalize businesses that grow by a single employee beyond the protections of the small group market, and leave these moderately-sized businesses with no protection from harmful insurance industry practices such as gender rating. We urge the Committee to adopt changes that would immediately provide these basic protections to the entire group market. Furthermore, by not extending these reforms to all fully-insured groups, the excise tax on high-priced health insurance plans as currently structured could have a disproportionately negative impact on those employers with older, sicker, and/or more predominantly female workforces due to phasing-in the insurance market reforms for the small group, and failing to extend those market reforms to larger self-insured groups.
- We are disappointed that the America's Healthy Future Act singles out abortion for different and unfair treatment. Such differential treatment discriminates against women, harms women's health, and further stigmatizes this basic health need. We urge the Committee to oppose any amendment that would result in a ban on private insurance plans from including abortion coverage or other amendments to make the provisions in the Chairman's mark even more restrictive.

- An effective provision to prohibit unfair discrimination, such as the discrimination women face on the basis of sex, should be included in the Chairman's mark.
- We are concerned that the "free-rider" proposal could result in employment discrimination for lower wage workers, as employers would try to avoid hiring lower-income individuals to prevent such financial liability by making assumptions about potential job candidates. For example, single mothers and/or women of color could face hiring discrimination based on such improper assumptions. In its stead, we urge the Finance Committee to adopt the employer responsibility requirements that were in the bill reported out of the Health, Education, Labor, and Pensions (HELP) Committee, to provide a fairer approach to sharing these important responsibilities.
- A provision should be added that assures individuals have real choices among insurance plans by including a public health insurance plan option. A public health insurance plan option will provide lower cost choices, ultimately saving money in the system by spurring competition with private plans, while ensuring individuals have a real choice of plans, something missing in so many markets around the country.

Moreover, with respect to financing as an overarching matter, the goal of making quality health care affordable to all Americans can be met without increasing the deficit by considering progressive options for raising revenues outside of the health care system, such as limiting the value of itemized deductions for very high-income taxpayers; imposing a surcharge on very high-income taxpayers; reforming the Medicare tax so that it no longer exempts all investment income; and closing corporate tax loopholes.

Thank you again for your continued commitment to enacting health care reform this year. We look forward to working with you to strengthen this bill as it moves forward and to securing quality, affordable health care this year.

Sincerely,



Nancy Duff Campbell
Co-President
National Women's Law Center



Marcia Greenberger
Co-President
National Women's Law Center

cc: Members of the Senate Finance Committee
Senate Majority Leader Harry Reid