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***NRLN is a coalition of 30 Retiree Associations
advocating the rights of more than 2 million
American retirees from...***

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October 4, 2010

The Honorable Kathleen Sebelius
Secretary of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Sebelius:

I am writing to you after reading the October 2nd Associated Press article about your speech to a gathering of AARP members to shore up support among seniors for the Patient Protection and Affordable Care Act (PPACA). As you told the audience about the good things in the health care reform law for retirees, I doubt that you told them that the Administration, led by your Department, has issued Interim Final Regulations that exclude retirees – and only retirees, including early retirees – from all of the consumer and patient protections under Titles A and C of the PPACA. The AARP apparently didn't tell its members either, during the Q&A that followed your speech, that the Obama Administration has chosen to deny many older Americans the protections of the PPACA by excluding retiree-only group plans from the Act's coverage – an interpretation that was clearly not intended by Congress nor supported by the statutory language.

Now many of our more than 2 million members of the National Retiree Legislative Network are being told by their former employers that anticipated provisions of the Act will not apply to retiree-only health care plans as offered by their former employers. Attached is an NRLN researched list of the PPACA benefits that the Obama Administration is refusing to apply to salaried and non-union occupational retirees unless a company-sponsored health care plan voluntarily includes them.

It appears that during the rulemaking process HHS was lobbied by companies for a carve-out for non-represented retiree health plans. This, in combination with ERISA language that clearly conflicts with the legislative intent of the PPACA, has denied early retirees and others in retiree-only plans the right to PPACA protections that were afforded all other Americans in group plans. The rules implemented by HHS and various other agencies and the preceding process may have been public to some degree, but they are indecipherable to the average citizen who thought the Act's requirements were sufficiently clear.

Tens of thousands of NRLN auto industry salaried retirees are particularly enraged. This has the makings of another Delphi-like calamity demonstrating the Obama Administration's disregard for salaried retirees and non-union occupational retirees covered by retiree-only plans but, even worse, this event affects retirees from many other industries across the country. This is another in a series of slaps in the face to non-union retirees who represent a large and growing segment of voting baby-boomers.

(More)

Furthermore, it is an example of how middle-class American retirees on fixed incomes are considered "legacy costs" by corporations who have broken promises to retirees while their government, which has lost its moral compass, has done nothing to protect the benefits that retirees earned through decades of their labor and dedication.

Members of Congress and the Administration have been boldly claiming the credit for the Act's benefits for seniors while at the same time companies are telling retirees they are not eligible for many of the benefits. Why have non-represented retirees in retiree-only group plans been targeted for exclusion from beneficial provisions of the new health care reform law?

Based on the discussions that we have had with staff members of Congressional leaders, it was not Congress' intent to create a new class of have-nots among America's non-union retirees. Instead, we were told the House bill was intended to apply equally to all health care plans. HHS should take the lead to set right the situation since members of Congress have gone home to campaign for the November election. America's retirees do not deserve to be treated this way by their government. If the NRLN can be of assistance for rectifying this grave disservice to many retirees, please contact Marta Bascom, the NRLN's Executive Director, at 703-863-9611 or at marta.bascom@linkspace.net.

Sincerely,



Bill Kadereit, President

National Retiree Legislative Network

Attachment

Copy to:

President Barack Obama

Timothy Geithner, Secretary of the Treasury

Hilda Solis, Secretary of Labor

Phyllis Borzi, Assistant Secretary of Labor

Richard L. Trumka, President AFL-CIO

Barry Rand, CEO of AARP

NRLN 10/1/2010 Review of H.R. 3590 Protections

| # | 9/23/2010 Protections | Group Plans | Retiree – Only Plans |
|------|---|--------------------------|---|
| | | Grandfathered* Or Not | Salaried & Non-Union Occupational Retirees |
| 2704 | Prohibition of preexisting condition exclusion or other discrimination based on health status | YES - APPLIES | DOES NOT APPLY |
| 2708 | Prohibition on excessive waiting periods | YES - APPLIES | DOES NOT APPLY |
| 2711 | No lifetime or annual limits | YES - APPLIES | DOES NOT APPLY |
| 2712 | Prohibition on rescissions - can't drop coverage for high claims or health conditions | YES - APPLIES | DOES NOT APPLY |
| 2714 | Extension of dependent coverage until age 26 | YES - APPLIES | DOES NOT APPLY |
| 2715 | Development and utilization of uniform explanation of coverage documents and standardized definitions | YES - APPLIES | DOES NOT APPLY |
| 2718 | Bringing down cost of health care coverage (for insured coverage) | YES - APPLIES | DOES NOT APPLY |

* Grandfathered plans are those that were in effect on 3/23/2010. Grandfathered plans escape other H.R. 3590—Patient Protection and Affordable Care Act (PPACA)—mandates. However, a Group health plan or health insurance coverage no longer will be considered a Grandfathered health plan if a plan sponsor or an issuer eliminates or substantially reduces benefits as stipulated on page 35457 of Federal Register /Vol. 75, No. 116 /Thursday, June 17, 2010 /Rules and Regulations.

NRLN retiree members under age 65 who are in Retiree-Only plans and who will lose the benefit of PPACA protections and mandates: Alcatel-Lucent, AT&T, General Motors, Chrysler, Detroit Edison, John Deere, Kodak, Qwest,.... not all have reported. Retiree Associations have advised that many company officials will make anonymous verbal representations only. We believe this omission by Congress will affect over 250,000 among just these larger Retiree Associations and well over 400,000 overall among the 30 Retiree Associations that are members of the NRLN. We have no efficient way to assess the impact on retirees from all 125 companies that NRLN members have retired from but speculate the total could reach 750,000. Companies are withholding their declarations regarding whether or not they will seek employee group status for retirees in some cases and as of 10/1/2010 some companies have not advised retirees of their status and may not have advised current employees either.