

January 8, 2010

The Honorable Harry Reid
U.S. Senate Majority Leader
S221 Capitol
Washington, DC 20510

Dear Majority Leader Reid,

We write to ask for your assistance in addressing a potentially devastating provision included in the Senate health care legislation, H.R. 3590, the *Patient Protection and Affordable Care Act* (PPACA). Specifically, we request that you work to strike this provision from the legislation during the upcoming House-Senate conference committee negotiating process.

As you know, the H.R. 3590 requires employers with 50 employees or greater to provide healthcare for their employees or face penalties. However, a provision added to the manager's amendment to the Senate bill (SEC. 10106. AMENDMENTS TO SUBTITLE F(2)(D), on page 76 of the manager's amendment) reduced this threshold to only 5 employees specifically and solely for the construction industry, which means that many residential homebuilders, small construction companies and subcontractors would be subject to a penalty for not providing health insurance coverage to their workers. Professions affected by this amendment also include plumbers, electricians, carpenters, roofers, dry wall contractors and masons, among others.

All other small businesses in the country with 50 or fewer employees will have an exemption without penalty while construction companies are arbitrarily singled out for different treatment.

According to the most recent data from the Medical Expenditure Panel Survey, which is carefully conducted annually by the Agency for Healthcare Research and Quality, only 43.2% of private establishments with fewer than 50 workers offered health insurance in 2008, and only 68.8% of workers in small establishments work for firms that offer health insurance as part of their compensation package. These rates compare with 96.5% of large establishments (50 or greater number of employees) and 98.4% of workers in large firms, respectively. In our communications with small business owners in our home states and all across the country, we have learned that the single most cited reason to not offer health insurance is that it is simply unaffordable.

It is our understanding that proponents of this provision argue that the construction industry is almost entirely comprised of small businesses, and that therefore these businesses will almost exclusively be exempt from providing coverage to their workers. However, we strongly believe in the exemption of *all* businesses of 50 and fewer employees, without exception, and believe that this provision unjustly targets an industry trying to keep its doors open during the

worst housing downturn since the Great Depression. These small businesses should be able to continue to choose for themselves, as they do today, whether or not to continue to provide coverage or newly offer coverage, and H.R. 3590 includes critical tax relief for eligible small businesses to help more of them do so. Furthermore, under health insurance reform, a reformed individual market will ensure that there are more options available to individuals for accessing quality, affordable coverage if they cannot get it from their employers. But penalizing these small businesses for not providing coverage when other small businesses, facing many of the same economic struggles, are exempt from the requirement is simply unfair.

Thank you for your attention to and assistance on this issue of extreme importance to many small businesses in America.

Sincerely,
