AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

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LEGISLATIVE ALERT!

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JOHN J. SWEENEY
PRESIDENT

RICHARD L. TRUMKA
SECRETARY-TREASURER

LINDA CHAVEZ-THOMPSON
EXECUTIVE VICE-PRESIDENT

November 3, 2003

Dear Representative:

If either of the Medicare drug bills now in conference becomes law, one-third of retirees who now have employer-sponsored prescription drug benefits will lose that coverage. That represents four million retirees who will be made worse off if Congress does not make significant improvements to the bills in conference. Such an act will make even worse an already fragile situation for retiree health benefits.

The portion of firms offering retiree health benefits has been cut in half over the last 15 years, down to just 34 percent of all large firms (200 or more employees) in 2002. With prescription drug costs making up 40 to 60 percent of employers' retiree health care costs, a Medicare prescription drug benefit will certainly help employers straining under skyrocketing drug costs. But the bills in conference discriminate against retirees who have employer-sponsored prescription drug benefits and actually provide an incentive for both public and private sector employers to eliminate their drug benefits.

By using a trick definition of out of pocket costs – so-called "true out of pocket" – the bills in conference effectively deny retirees catastrophic coverage by not counting toward the catastrophic cap any drug costs covered through an employer plan. This ensures seniors with employer-sponsored retiree benefits will get less of a Medicare drug benefit than any other beneficiary. Employers that choose to maintain coverage will get less of a subsidy than they would without the discriminatory definition and those that "wrap around" the Medicare benefit and provide assistance for costs not covered by Medicare will find the gap in coverage does not end for their retirees. It is this disparate treatment, the Congressional Budget Office has said, that would prompt employers to eliminate their prescription drug benefits.

The CBO estimate has been confirmed by another, independent analysis by Emory University researcher Ken Thorpe. Like the CBO analysis, Dr. Thorpe found this disparate treatment for retirees with employer-sponsored coverage could prompt employers to drop prescription drug benefits for almost 4 million retirees. The only other analysis (by the Employee Benefit Research Institute) arrived at a different number using highly questionable assumptions, but even that estimate found the bills in conference would accelerate the rate of employers dropping coverage. (For example, the EBRI analysis mistakenly assumes that no employer with a collective bargaining agreement nor any public employer will drop coverage.)

Although some may claim that the "true out of pocket" provision will save money for Medicare, any provision that encourages employers to drop their retiree benefits will only end up costing the federal government more – and hurt millions of seniors in the process. Seniors who have retiree benefits have worked a lifetime and made wage concessions over the years with the expectation that they would have retiree benefits. To change the rules of the game at this point and give them less than other Medicare beneficiaries is patently unfair.

We believe this inequity can be addressed through an employer tax credit that uses available revenues to equalize the treatment of retirees who have employer-sponsored benefits. Such a tax credit would make available to employers the reinsurance payment other Medicare beneficiaries would receive when they reach the catastrophic spending limit. Of the tax proposals under consideration in the conference, only a tax credit that is directly tied to employers maintaining retiree health benefits can address the problem of retirees losing coverage. In fact, the proposals for individual health benefit accounts, like the Health Savings Accounts and Retiree Medical Savings Accounts, would actually make matters worse. By providing a tax advantage for such accounts, employers would have further incentives to reduce their contribution and commitment to health benefits for active workers (in the case of HSAs) and retirees (RMSAs).

We have many concerns with other provisions under consideration in the conference committee, particularly the premium support proposal, the reported agreement to provide significant payments to private plans to prop them up and even push them ahead of traditional Medicare, and proposals to eliminate the entitlement nature of Medicare by capping funding for the program. We strongly believe that adding a prescription drug benefit to Medicare is the most urgently needed reform and one that has been promised to our nation's elderly and disabled. However, we would oppose legislation that does so at the expense of retirees who now have employer-sponsored prescription drug coverage and threatens the very future of Medicare.

Thank you for your consideration.

Sincerely,

William Samuel, Director
DEPARTMENT OF LEGISLATION