

November 6, 2009

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

Dear Senator Reid,

As the health care reform process moves into its final phase, we write to urge you to include even stronger provisions than those currently in the Senate Finance bill to help ensure transparency and accountability from the private health insurance industry. Today, health insurers deem a considerable amount of information about the prices they charge and the care they cover business trade secrets. The unavailability of this data makes it particularly difficult for professionals, let alone individuals, to compare health insurance plans or to understand how well competition is working in the health insurance market. Lack of data makes it hard to identify and address fraudulent insurer behavior and difficult for Congress to address emerging issues in health insurance markets post reform.

An article in the May 2008 issue of *Texas Medicine*, the magazine of the Texas Medical Association, speaks to the importance of transparency in health insurance premium setting, particularly for small businesses that have very little negotiating leverage. The Harris County Medical Society (HCMS) offered its 21-member staff a choice between a PPO product and an HSA (Health Savings Account). In 2006, the Society was told they would have to pay 22.4 percent more for its PPO and 21.7 percent more for its HSA, despite the fact that the previous year Blue Cross had paid out only 67 percent of premium dollars for care under the PPO, and only 9 percent under the HSA. The Society, composed of physicians who should be the savviest health care consumers, would not have been able to correctly evaluate the insurers' proposal if it were not for a new Texas law that requires health plans to disclose the share of premium revenue they spend on health care—but only when asked about it by customers. When the *Houston Chronicle* asked Blue Cross officials why HCMS's premiums rose so much, they could not or would not be specific as to how the renewal premiums were calculated.

Requiring insurers in the new insurance exchanges to accept all applicants and not allowing them to underwrite policies based on people's health status is critical for expanding access. It is not enough to help people make meaningful decisions when choosing health insurance plans. Americans should have access to basic information about different insurers' practices, including how they calculate their premiums, under what circumstances they deem specific services medically necessary, claims data, denial rates and provider rates. Simply knowing premiums, deductibles, copays and provider networks leaves too much vital information unknown and undermines competition.

Allowing insurers to keep claims and payment data secret effectively allows them to discriminate against people with costly and complex conditions. A lack of transparency invites mischief by making it difficult to detect fraud or misrepresentation. For example, insurers can overstate their

costs in paying claims or deceptively undervalue what they owe providers under the terms of their contract with little likelihood of penalty.

A public health insurance option, like Medicare, will be transparent and accountable; the private insurers should be equally so. Medicare posts its coverage protocols and other key data on the web for easy public scrutiny. Private insurers should do likewise. Medicare also subjects its claims data to outside scrutiny, allowing experts to study and report on cost and quality in the Medicare program, something they cannot do for the private insurance companies. Indeed, the only reason Atul Gawande was able to spotlight McAllen, Texas as the place in America with high costs and poor quality in his now famous *New Yorker* article is because Medicare makes its claims data available. Transparency in the private insurance market would permit working Americans to distinguish among private insurers based on reports analyzing their behavior.

To ensure the most efficient and effective means of securing data needed to compare health insurance plans, the federal government should have oversight and enforcement authority that complements state authority. As history and experience demonstrate, most states do not have the wherewithal to require insurers to disclose this key data. HR 3962, Sections 233 and 242 (c), provide for insurance transparency and accountability, with federal oversight and enforcement. We urge the Senate to support it as well.

Sincerely,

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Gerard Anderson, Johns Hopkins University
Diane Archer, Institute for America's Future
David Balto, Center for American Progress
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cc: Senator Baucus
Senator Dodd
Senator Harkin
Senator Rockefeller