Statement of Senator David Pryor (D-Ark)
September 23, 1993

The President's Health Care Reform Plan and Prescription Drugs: Improving Access; Assuring Quality; A First Step Toward Containing Costs

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Mr. President. Last night President Clinton described for the Congress and the American people his plan to reform our nation's ailing health care system. The President and the First Lady have taken on an enormous, but certainly needed task, and we all owe them a sincere debt of gratitude.

In this statement, I hope to address some of the President's proposals relating to prescription drug coverage and cost containment. As Chairman of the Special Committee on Aging, I have placed special emphasis on the ability -- or should I more appropriately say "inability" -- of millions of older Americans to obtain the medications needed to maintain life and health. Too often I have recited the now familiar statistics concerning the lack of public and private insurance coverage among older Americans for prescription drugs, and the fact that drug costs have increased three times the rate of inflation over the past 12 years.

This health care reform initiative gives us once and for all an opportunity to make prescription drugs available and affordable for all Americans. I want to work with the Administration and the Congress to make this a reality.

THE PRESIDENT'S PLAN DOES A GOOD JOB IN IMPROVING PRESCRIPTION DRUG COVERAGE

The President's plan goes a long way toward making prescription medications more available for all Americans. <u>All health plans will be required to cover prescription drugs as a standard medical benefit.</u> This is good news since almost 25 percent of Americans under 65 have no prescription drug coverage whatsoever. Many others have only limited insurance coverage for medications. Most of these Americans are poor but ineligible for Medicaid, but nonetheless have significant prescription drug bills without a way to pay for them.

<u>The President is proposing that Medicare cover the cost of outpatient prescription drugs.</u> This is also good news, since prescription drug costs are now the highest out-of-pocket medical cost for three of four older Americans. It is older Americans who have been hardest hit by skyrocketing prescription medication costs.

A recent AARP study found that nearly 8 million older Americans over 55 say that they have to make choices between buying food and paying for medications. We may finally put an end to this shameful situation in our country.

A Medicare drug benefit will obviously be an important but expensive addition to the Medicare program. We must find a way to assure that all parties to the drug benefit -- the beneficiaries, the pharmacists, and the drug manufacturers -- shoulder their fair share of the responsibility for containing costs in any program developed, to assure that it remains fiscally solvent and financially viable.

THE PRESIDENT'S PLAN IMPROVES THE QUALITY OF PHARMACEUTICAL CARE FOR MEDICARE BENEFICIARIES

The President's plan recognizes that a much better job needs to be done in educating older Americans on how to take their medications properly. The plan establishes a program that requires pharmacists to offer to counsel Medicare beneficiaries on the use of their drugs. This is particularly important for older Americans who often take more than one prescription medication. This program will also reduce the number of adverse reactions from medications as well as decrease the need for medication-related hospitalizations and physician visits.

I am pleased that the proposal recommends for Medicare beneficiaries the same approach that was enacted for Medicaid recipients in the Omnibus Budget Reconciliation Act (OBRA) of 1990. In that legislation, a comprehensive program of Drug Use Review (DUR) was developed for Medicaid beneficiaries. Now in its first full year of implementation, I believe that the Medicaid DUR program will not only save costs, but it will significantly improve quality of care. Since OBRA 90 was passed, most states now require that a pharmacist offer to counsel all of their patients -- not just Medicaid recipients -- on how to use their medications. This is the first step toward a more expanded role for pharmacists in the health care system.

However, I also believe that any Medicare prescription drug program should be able to use the same "managed care" principles that have been so effectively used by managed care organizations, and other third party prescription drug programs. In fact, a major drug manufacturer has endorsed the use of "Coordinated Pharmaceutical Care" as a way to assure that the right drug is given to the right patient at the right time. While I am not making a judgment in this statement about whether this manufacturer's particular approach to pharmaceutical care is the most appropriate, I will work to see that pharmaceutical care principles are included in any Medicare drug benefit.

The President's plan does not address the issue of providing coordinated pharmaceutical care and pharmacy services to Americans outside of the Medicare program. I do not want to see pharmaceuticals just become commodities which are moved from place to place in the cheapest way possible. There is much more to providing pharmaceuticals than that, and it is my hope that all health care plans will offer coordinated pharmaceutical care and pharmacy services as part of the standard benefits package.

THE PRESIDENT'S COST CONTAINMENT APPROACHES ARE A FIRST STEP IN THE RIGHT DIRECTION

The President's plan appears to rely primarily on competition in the marketplace, and the "good faith" of the manufacturers to contain drug costs. The proposals in the President's package, in my mind, represent the most modest or minimal forms of pharmaceutical cost restraint that could have been proposed. While a step in the right direction, I am concerned that this part of the plan may not go far enough in bringing down drug prices.

The three aspects of pharmaceutical cost containment which I believe are needed in health reform are: short term cost containment on pharmaceuticals during the period of transition to the new system; cost containment for new drugs; and cost containment in publicly-funded prescription drug programs, notably Medicare. The plan appears to be headed down the right path toward containing costs in the Medicare drug program. However, the plan generally fails to adequately address short-term pharmaceutical cost containment measures and the impact that new drug prices will have on the health care system.

Transition to the New System

It is likely that two or three years will go by before any new Medicare drug benefit is up and running or before universal prescription drug coverage is phased in. The President's plan assumes that health care plans will use drug formularies, volume purchasing, therapeutic interchange, generic substitution, and Drug Use Review (DUR) to help contain total pharmaceutical expenditures to contain drug costs thereafter. All these tools can work, and have been shown to be effective. However, it is a far stretch of the imagination to assume that all plans will be in operation, no less have these tools in place, in two or three years. The drug industry would have us believe that, for the most part, the majority of the pharmaceutical marketplace is now, all of a sudden, highly price competitive. This is also a stretch of the imagination.

In fact, no more than half of the marketplace is operating under some form of "managed care" pharmaceutical principles. While these competitive principles are likely to apply to more and more of the pharmaceutical market as time goes by, they cannot be expected to take over the majority of the market for some time.

For these reasons, a logical question to ask is how drug costs can be contained during the period of transition to the new system. The manufacturers have said that they want to "voluntarily" restrain their drug prices. As I said in a statement to the Senate on September 15, these "voluntary" approaches by the manufacturers do not appear to be working to restrain price increases for the average American buying drugs at the local pharmacy. Manufacturers' prices at the retail level continue to go up much faster than inflation.

I believe that we need a new "voluntary" pharmaceutical cost containment approach, and I have challenged the drug industry to sign a commitment to the Secretary of Health and Human Services (HHS) to limit their individual retail price increases to the inflation rate. In my mind, this approach will help older Americans afford their medications during the period of transition to universal prescription drug coverage.

We should give the drug manufacturers every opportunity to make good on a "voluntary" commitment that is meaningful and that stops rapidly-escalating price hikes at the retail level. However, if manufacturers do not adequately address this situation on a "voluntary" basis, I do not think we should close the door on requiring price restraints during the transition time, or until health plans can have their formularies and volume-purchasing programs in effective operation.

New Medications

New medications are expected to be expensive, especially new biotechnology drugs. Americans are willing to help finance vital research and development on new, improved medications. However, the fact is that for too long Americans have almost single-handedly subsidized research and development, excessive marketing costs, and exorbitant drug industry profits for the entire world, and that is not fair. Americans have invested heavily through the tax code to support the development of new drugs, and then are asked to pay the highest prices in the world. Therefore, there is a need to assure that new drugs are reasonably priced and made affordable to America's health care system.

That does not seem to be an unreasonable request of drug makers, especially since all health care plans will have to extend coverage to expensive new medications under the universal prescription drug benefit.

The President's approach gives the manufacturers the benefit of the doubt when pricing their new products. Specifically, the plan requires that a "Breakthrough Drug Committee" be established, and be charged with "reviewing" the prices of new drugs which are determined to be excessively priced. The Committee would then make some public declaration about whether it believed, based on the available evidence, that the price of the drug was "reasonable." It would appear that the intent of this Committee is to make drug manufacturers think twice about pricing a product excessively, for fear of negative publicity through this process.

The establishment of this "Breakthrough Drug Committee" is a step in the right direction because it brings into the public domain the debate over the pricing of new drugs. It appears, however, that the Committee's enforcement authority is more like "gums" rather than "teeth." This concerns me and should concern all health care providers, institutions, advocates, and consumers.

The Committee's sole enforcement mechanism appears to be "public shaming" of drug manufacturers that excessively price their products, and declarations about how "unreasonable" a price really is. I expect that the Committee could make public declarations until it is blue in the face about the "unreasonableness" of a new drug's price with little real impact.

In the past, public shaming of drug companies regarding their prices has produced little more than frustration as far as I am concerned. In spite of all the criticism that has been leveled at the pricing of new drugs such as Clozaril, Foscavir, and Betaseron, I do not recall the companies lowering their prices. The negligible response of drug manufacturers to public shaming is nothing less than shameful itself.

It may be necessary to strengthen the powers given to this Breakthrough Drug Committee so that, while not controlling or setting the price, it makes the manufacturer wring from the final price of a new drug any excessive profits and exorbitant marketing costs that it would seek to heap on the American public. A reasonable price is a reasonable expectation.

Medicare Drug Program Cost Containment

I am pleased that the Administration has had the wisdom to craft a Medicare drug benefit which includes meaningful cost containment. All parties involved in the proposed benefit should have a part in containing the cost of the program. Like the Medicare Catastrophic Coverage Act of 1988, beneficiaries will have their share of the financing burden. Additionally, community pharmacists have specific caps on the amounts that they can be reimbursed.

However, this proposal recognizes that Medicare will become a large-volume payer for pharmaceuticals, and should be able to use the same type of cost containment approaches used by other fee-for-service prescription drug programs: rebates and negotiations. Other large-volume purchasers and payers, such as hospitals, HMOs, and other health plans will be negotiating with drug manufacturers over the price of the drugs that they buy. The Medicare program, the single largest pharmaceutical program in the country, should be afforded the same benefit, and should not be discriminated against by drug manufacturers.

It is very difficult to understand or rationalize why Medicare -- the largest single payer for drugs in the market -- would not deserve some sort of price break. Yet, the manufacturers are referring to the 15 percent discount on their drug products in the President's proposal as a "tax." Manufacturers have to negotiate discounts and rebates with hundreds of health plans on a regular basis. Are those taxes, or just the cost of doing business with these plans? These manufacturers also refer to the authority given to the Secretary to negotiate new drug prices as a potential "blacklist." Yet, many health plans in the United States do not automatically provide coverage for a drug or biological unless the plan determines that the drug is cost effective as compared to other drugs which are covered.

Even new drugs which represent significant therapeutic advances are often prescribed under some type of guidelines or protocols. Should Medicare be any different in how it operates? Manufacturers cannot and should not make Medicare -- the taxpayer and elderly funded drug benefit -- a final source of untapped and unrestricted revenues. Medicare's drug benefit should be a managed drug benefit. Manufacturers have to play by the same set of rules with all purchasers -- whether public or private.

THE PRESIDENT'S PLAN INCREASES THE FEDERAL GOVERNMENT'S ALREADY SUBSTANTIAL CONTRIBUTION TO NEW DRUG RESEARCH AND DEVELOPMENT

The President's plan will help to defray some of the costs of new drug research and development in the United States. First, the plan provides billions of dollars more in addition to the billions the federal government already allocates to the National Institutes of Health to support research and development for new treatments. The NIH is the premier biomedical research institution in the world in helping to find treatments for diseases that affect all Americans, especially older Americans. These include chronic and recurrent illnesses, such as Alzheimer's and cardiovascular diseases, and infectious diseases, such as AIDS and tuberculosis.

Second, the standard benefits package helps to pay the cost of clinical trials on new and investigational drugs, which is the most expensive part of the new drug development process. It is important to note the substantial increased commitment to research and development in the plan because the basis of the drug industry's argument against cost containment is that it will reduce R&D -- especially for drugs used to treat older Americans. The President's plan, in fact, will assure that more, not less, emphasis is placed on research for diseases affecting older Americans.

The President's plan also recognizes that we need to assure that drugs which are developed with federal support, and then transferred to the private sector for further development are priced reasonably. I intend to pursue protections under health care reform to assure that the American taxpayer's investment in research and development is protected, and I commend the President for his concern with the taxpayer's investment as well.

UNIVERSAL PRESCRIPTION DRUG COVERAGE: THE DRUG INDUSTRY'S PANACEA

Drug manufacturers are angling for their ultimate panacea: universal coverage for prescription drugs without any meaningful cost containment. According to the Pharmaceutical Manufacturers Association's (PMA's) own numbers, 72 million Americans lack prescription drug insurance coverage. With all Americans covered for prescription drugs, that will mean a significant expansion in the manufacturers' sales and revenues.

There is no doubt that pharmaceutical manufacturers' revenues and profits will grow under health reform. Millions of prescriptions that currently go unfilled because individuals cannot afford them will be filled. In fact, a recent report about the future of the pharmaceutical marketplace said the following:

"...U.S. pharmaceutical sales have grown at a compounded rate of 17.5 percent over the past three years, reaching more than $50 billion in 1992. Even if the growth rate were slowed to 7 percent, sales would exceed $90 billion by the end of the decade." That's an increase in sales of 80 percent in just a little over six years. Even if a majority of the new prescriptions that are dispensed are filled with generic drugs, the brand name drug industry benefits because they control most generic drug sales already.

In spite of all the talk by the drug industry that the President's plan casts dark shadows on the drug industry's future, the combined effect of increased sales from universal coverage, minimal cost constraints on pharmaceutical pricing, and increased federal efforts to support new drug research and development, translate to a real boom for the drug industry from the President's plan.

Over the course of this debate, I will work hard to assure that health care plans, both public and private, have the tools necessary to effectively manage their drug expenditures. It is essential that the American consumer be the ultimate beneficiary of expanded prescription drug coverage -- not highly paid drug company executives, lobbyists, or stockholders in drug manufacturing entities. As the President said last night in his address, the days of profiteering are over in the health care system.

I look forward to working with all interested parties -- consumer groups, older Americans, health care institutions and plans, brand name and generic manufacturers, the states, and my fellow colleagues -- in achieving this goal.

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

September 16, 1993

Ira C. Magaziner
Senior Advisor to the President
for Policy Development
The White House
Old Executive Office Building
Washington, D.C. 20500

Dear Ira:

I am writing to express serious concern with reports I am hearing that certain provisions in the draft of the President's Health Care Reform package relating to pharmaceuticals are in jeopardy. I strongly urge that the consumer protections relating to pharmaceuticals remain part of the comprehensive reform package to be introduced by the President next week.

After reading a copy of the September 7 draft of the plan, I was pleased to see the plan included some of my earlier recommendations relating to pharmaceuticals. For example, I was pleased to see that strong cost containment protections were included in the Medicare outpatient prescription drug benefit, both for currently-marketed drugs and new prescription drugs. In addition, it was encouraging to see that a Breakthrough Drug Committee is being established as part of the National Health Board. While I am concerned that this Committee will not have strong enforcement powers, this panel provides an important start in assuring that new drugs are priced reasonably.

Ira, I understand from conversations with my staff that these provisions already represent compromises from stronger versions that were being considered for inclusion in the plan. For that reason, I would be very concerned if the final plan that is sent to Congress included any further compromises of the provisions already in the draft plan. The Administration must give the Congress as much leverage as possible in dealing with the drug industry, and a further weakening of these provisions would put us and the Administration in a very poor negotiating position.

I am particularly concerned that the provisions relating to Medicare's ability to negotiate with manufacturers over the price of new drugs remain intact. The drug manufacturers see a Medicare prescription drug program as the last program in which they can charge whatever they want for their products.

As a matter of fiduciary responsibility to taxpayers, and of sound public policy, we must do all we can to assure that Medicare dollars and beneficiary premiums are spent wisely.

The drug industry, as you know, has one of the strongest and most effective lobbying operations in Washington. Undoubtedly, they will lobby against any form of price restraint or cost control, no matter how mild it might be, and try to "dilute" it even further. They are already labeling these provisions as "price controls" or "taxes" when in effect they represent the mildest form of price restraint on an industry that has a track record of charging excessive prices for their products. At this point, I would say that these provisions in the President's plan already represent "realistic compromises", and would strongly urge that the Administration stick to its plan as written.

The fact is that several major concessions appear to have already been made to the drug industry: no short term "voluntary" controls; a committee which only reviews the prices of new drugs, and has very little enforcement authority; and significantly expanded prescription drug coverage. The industry is attempting to achieve their ultimate panacea: universal coverage without any form of cost containment. This would be a major defeat for the American public and the health care system that you, Mrs. Clinton, and the President are trying so hard to reform.

To a large degree, the success that we had in this session in enacting provisions relating to Medicaid prescription drug formularies and childhood immunizations was attributable to the Administration's including these provisions in its initial package. I believe that our only hope for similar success with drug provisions in the final health care reform legislation is if the Administration starts off from a strong negotiating position.

Having said all this, I want you to know that I am aware of a PMA memorandum that is being distributed that alleges that the White House is already backing down on these issues. Chris Jennings of Mrs. Clinton's staff assures me that this is not the case. However, I once again wanted to express to you my strong desire to be kept informed of any consideration being given to modifying the plan's pharmaceutical provisions, and reiterate my strong support for what is included in the plan already.

Thank you again for all your hard work on the health care reform package. We all appreciate the countless hours that you and your staff have expended to make health care reform a reality. I look forward to continue working with you in this regard.

Sincerely,

David Pryor
Chairman

cc: Mrs. Hillary Rodham Clinton
Chris Jennings

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

September 17, 1993

Mrs. Hillary Rodham Clinton
President's Task Force on Health
Care Reform
The White House
Old Executive Office Building
Washington, D.C. 20500

Dear Hillary:

I hope that all is going well as you and the President approach the unveiling of the health care reform plan. I wanted to be sure that you received a copy of a letter that I sent yesterday to Ira Magaziner concerning provisions in the draft of the health care reform plan relating to pharmaceuticals.

The bottom line is that the plan must be very strong on consumer protections relating to the price that pharmaceutical manufacturers charge Americans for medications. I am hearing rumors that manufacturers are putting tremendous pressure on the White House to weaken parts of the plan relating to pharmaceuticals. I believe such action would be a serious mistake. It appears to me that the provisions in the draft already represent reasonable compromises.

You and the President have been very strong on the issue of vaccine and pharmaceutical prices, and I thank you for that. We now have a golden opportunity to assure that pharmaceutical manufacturers give the American public a fair deal once and for all. We need the White House to be strong on these issues in the final plan.

Thank you for your consideration of my views during the development of the plan. I look forward to working with you in reforming the health care system over the weeks and months ahead.

Sincerely,

David

David Pryor
Chairman

Enclosure

UNITED STATES SENATE • SPECIAL COMMITTEE ON AGING

AGING NEWS

SENATOR DAVID PRYOR, CHAIRMAN

FOR IMMEDIATE RELEASE
October 27, 1993

Andrea Boldon
202/224-5364

PRYOR WILL CO-SPONSOR THE "HEALTH SECURITY ACT OF 1993"

WASHINGTON -- Senator David Pryor (D-AR) said today that he plans to co-sponsor the President's health care plan and applauded President Clinton and First Lady Hillary Rodham Clinton for having worked "tirelessly" to produce an impressive health care reform proposal.

"Today's formal presentation of the President's health plan to Congress marks the beginning of what promises to be a lengthy, yet productive process to enact a comprehensive, responsible health care reform measure," Pryor said following Clinton's presentation of the plan to Congress in a ceremony at the Capitol.

"Certainly some aspects of the plan need additional review, but the cost of doing nothing far outweighs the cost of the proposed plan -- both in human and financial terms," Pryor said.

"I sensed a great deal of enthusiasm from my colleagues in the House and Senate," Pryor said. The President and the First Lady have worked tirelessly on this plan, and I strongly believe that we in Congress now have the collective energy and willingness to set aside partisan bickering to deliberate and move forward on this issue."

Pryor commented on how various parts of the President's plan would affect older Americans, prescription drug access, health care delivery in rural areas, small businesses, and insurance market reforms.

** **EFFECT OF PLAN ON SENIORS** -- New and expanded benefits for senior citizens, including coverage for prescription drugs under Medicare and long-term care should make the President's plan especially attractive to older Americans.

"Just like all citizens, the elderly stand to benefit significantly from overall reductions in the cost of care which are expected to result from efficiencies in the new system. These efficiencies will likely translate into slower increases in Medicare premiums and co-payments," said Pryor.

** **THE MEDICARE PROGRAM** -- Medicare will remain a separate program initially; however, there will be additional choices and options available to both beneficiaries and states.

"For example, states which have fully adapted to the new system will be given the option to incorporate Medicare beneficiaries into the alliances. If a state opts to do this, the coverage it provides must be greater than or equal to Medicare, at no additional cost to the Medicare program or the beneficiary. Also, persons newly eligible for Medicare will have the option to remain in their health plan provided through the alliance, or enroll in the Medicare program," Pryor said.

** **LONG-TERM CARE** -- The President's plan provides for a broad array of home and community based care, improves the Medicaid program for nursing home residents, and includes significant improvements in the private long-term care insurance market.

"The President's plan emphasizes home and community based care, providing a broad array of services to those who meet certain disability requirements, with some cost-sharing based on income. Services such as home health care, adult day care, and respite services will play a prominent role."

The plan's improvements in the private long-term care insurance market are changes which Pryor has advocated vigorously in recent years.

** **PRESCRIPTION DRUGS** -- Prescription drug reforms included in the President's health reform plan will require all health plans, including Medicare, to cover prescription drugs as a standard medical benefit. Pryor, however, is concerned that the plan's approaches to slow the rate of prescription drug price growth may not go far enough.

"I am pleased to see the President's plan would expand prescription drug coverage to some 72 million Americans -- including millions of older Americans -- who do not have any way to pay for their drugs." Pryor said.

"While I applaud the plan for recognizing that pharmaceutical cost containment is long overdue, I am concerned that it falls short on the cost-containment side," Pryor said.

The plan does not propose any meaningful pharmaceutical price restraint during the period of transition to the new system, and the "Breakthrough Drug Committee," which would analyze pricing of new drugs, does not appear to have any "real" power.

** **HEALTH CARE IN RURAL AREAS** -- "The President's plan will provide a number of incentives to draw providers into rural practice and improve access to health care in rural areas. Through tax credits for health care providers and other measures, the Health Security Act will make a positive contribution to the health care available to rural Americans," said Pryor.

** **INSURANCE MARKET REFORMS** -- "Under the President's plan, people would no longer be denied health insurance because of a so-called 'pre-existing condition'. No longer will insurance companies get to pick and choose whom they cover. By requiring community rating, guaranteed issuance of coverage, and guaranteed renewability, the plan will provide the security Americans deserve," said Pryor.

** **SMALL BUSINESS** -- "The President's plan will bring significant relief to small businesses who have been straining under the burden of ever-rising health care costs. Insurance practices which lead to discriminatory and higher costs for small business will end -- no more cherry picking." The plan also provides for a permanent 100 percent tax deduction for the self-employed.

Pryor concluded his comments by stating that he looks forward to working with his colleagues to ensure passage of a health care bill that makes the system "work for all Americans."

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Senator Pryor's full 7-page statement will be made available tomorrow (10/28) morning.

DAVID PRYOR
ARKANSAS

United States Senate
Washington, D. C.

November 10, 1993

Dear Mr. President:

This week I received the enclosed copy of a letter to you. I would like to respectfully make the following observations:

(1) John Satagaj and Small Business Legislative Council are friends of yours. Among all the small business groups; they are by far the most progressive and constructive.

(2) John and his group have worked so well with all of us on Health Care issues. When NFIB was out there murdering us, John kept his cool and always wanted to work with you people and behind the scenes, seeking constructive solutions.

(3) The independent contractor misclassification issue has a long history fraught with both political and substantive problems. John is a rare individual who is invaluable on both.

Mr. President, something, somewhere has gone wrong if John Satagaj's group feels betrayed and will not work with this Administration. Whatever you can do to rectify this situation will pay benefits toward passage of Health care reform.

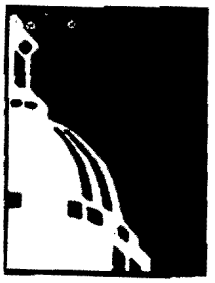
Sincerely,

David

David Pryor

DP/slb

Thank you —



SMALL BUSINESS
LEGISLATIVE
COUNCIL

October 28, 1993

The President
The White House
Washington, DC 20500

Dear Mr. President:

Today, we learned that as part of the Health Security Act, the Internal Revenue Service (IRS) has given itself the authority to rewrite unilaterally independent contractor/employee classification rules for employment tax purposes. These provisions go far beyond health care reform. We were deeply disappointed that this action was taken without consultation with the small business community. Instead of building up small business trust, this is going to detract, in a most detrimental way, from your reform efforts.

The IRS may believe it has its justifications for changing independent contractor rules for employment tax purposes, but your health care reform bill is not the place I would have chosen to do it, especially if you wanted to get any small business support for health care reform. It simply did not have to be put in this bill. All your bill had to say was, "for the purposes of determining whether an individual is an employee under the Health Security Act, federal employment tax law and regulations will apply." Somebody decided to go for the whole ball of wax.

Certainly, it was well-known within the IRS, our strong feelings on the subject. Personally, I have been working with the IRS over the last four years, in what I thought was a collaborative effort, to resolve many of the issues surrounding the independent contractor controversy.

We are most dismayed because on Wednesday, October 20, a delegation of SBLC representatives met with Commissioner Richardson, Deputy Commissioner Dolan, and other ranking IRS officials to specifically discuss independent contractor issues. SBLC specifically sought the meeting to ensure there was a high level of cooperation between small business and the IRS. ***Not once in a one-hour discussion did the Commissioner give even the slightest indication that the Health Security Act would include the extensive language in Section 7301 et seq.***

The irony of that meeting was that SBLC had extended the olive branch, asking for the meeting, even though we believed we were the aggrieved party resulting from earlier actions of the IRS in your Administration.

1156 15th Street, N.W. - Suite 510 Washington, DC 20005 (202) 639-8500 / FAX (202) 296-5333

In the previous episode, you may recall we had expressed our surprise when your reconciliation proposal included a provision known as SINC. Iimmediately wrote you a private letter expressing our dismay, because small business had been quite public in its opposition to that provision when it had surfaced in different legislation in the previous Congress. We were surprised to find it in the reconciliation proposal, given the fact that at that point in time, appeals of support from the small business community were an important concern of your Administration. We ultimately had to go public with our disagreement and we did defeat the provision. But, as is our style, we did not do so until we had exhausted the more discreet channels over a three-month period.

During that legislative effort, I was severely chastised by the Commissioner for our role in defeating the measure, which was all the more astonishing, given the fact that we had been publicly on record as being against the provision for at least two years. More importantly, we were working with your Administration at that time, on garnering small business support for the rest of the reconciliation package.

Frankly, at that point, we felt we had been aggrieved, but determined to strike a positive note with this Administration, we swallowed our pride and asked for the meeting on October 20 to clear the air – a meeting at which we repeatedly stated our interest in trying to work these issues out. Yet, not a single word about this new comprehensive and unilateral action was spoken.

The true tragedy is that, notwithstanding the fact the IRS Commissioner deemed it inappropriate to tell us anything on Wednesday, October 20, this controversy could have been avoided. We did learn from other sources, on Thursday, October 21, that the health care bill might have something in it on the subject. Immediately, on Friday morning, October 22, I apprised Erskine Bowles, Amy Zisook, and Glen Hutchins of this information and suggested that someone should find out if it was true; and if it was true, had someone determined what the reaction of the small business community would be? To their great credit, all three immediately recognized the significance of what I was telling them and I know for a fact, immediately alerted others in your Administration.

What happened after they did their job I do not know, but I do know what SBLC did. We waited and held our concerns private until the release of the bill to give your Administration the opportunity to straighthen this out. That's the way we do business.

SBLC has worked diligently to build a cooperative relationship with this Administration on health care reform and other issues. We feel betrayed.

If this is the standard members of your Administration are going to set for working with those who have shown a willingness to work with this Administration, we do not see how we can be helpful.

Sincerely,

John S. Satagaj
President

JSS/S2926

cc: Hon. Margaret Richardson
Hon. Erskine Bowles
Hon. David Pryor
Glen Hutchins
Amy Zisook
SBLC Officers