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June 23, 2010

Secretary Hilda L. Solis  
U. S. Department of Labor  
200 Constitution Ave., NW  
Washington, DC 20210

RE: Material Modification Guidelines  
For Grandfathered Health Plans

Dear Madam Secretary,

Throughout the contentious debate on health reform legislation, the President assured us over and over that if we are happy with our current health insurance plan, we are free to retain it. In drafting the Patient Protection and Affordable Care Act, Congress acted to place substance on that pledge by providing that existing plans would be grandfathered from many of the PPACA provisions, barring any material modifications.

On June 14<sup>th</sup>, Treasury and HHS released interim guidelines defining "material modification". We find these guidelines reasonable with one exception: that a change of insurance carrier would constitute a material modification. A business may have an opportunity to reduce plan premiums and/or improve claims service (either of which is of benefit to the employees) by changing carriers. This is a process followed by most employers each year at renewal time. They receive a renewal letter from the carrier listing the premium charge for the next plan year. If unacceptable, the employer will then shop the market place for a better financial arrangement. If the plan benefits remain the same, but the business simply changes the carrier- the funding device - there is no logic, in our judgment, that this be deemed material modification of *the plan*. The insurance carrier is immaterial to the ERISA mandated summary plan description.

Please consider that it will be very difficult for most businesses to remain in a grandfathered state for any length of time due to this one element in the proposed regulations. As such, we believe it sharply dilutes the President's promise to the nation and circumvents the spirit of the law that Congress crafted. We ask that you remove change-of-carrier from the list of items that will trigger loss of grandfathering.

Respectfully submitted,

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