



January 11, 2010

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

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

Dear Leader Reid and Speaker Pelosi:

The American Cancer Society Cancer Action Network (ACS CAN), the advocacy affiliate of the American Cancer Society, commends you for your leadership and continuing commitment to enacting comprehensive health reform legislation. The bills passed by the House and Senate contain far-reaching improvements to the nation's health care system that will benefit millions of cancer patients, survivors and their families. Your respective bills each contain important measures, including insurance reforms giving Americans access to adequate and affordable coverage, major enhancements to the system-wide focus on disease prevention and incentives to improve the quality of care patients receive.

As you work to reconcile the House and Senate bills, we hope you will consider the following additional refinements that would significantly benefit people with cancer and others with serious medical conditions

**Affordability:** Making health insurance affordable is critical to expanding and improving coverage. We prefer the House-passed exchange subsidy provision that provides greater resources for subsidies overall and better directs the subsidies to the lowest income families, who are most in need. Additional resources clearly need to be found to further strengthen the subsidies so insurance really is affordable to low- and middle-income families purchasing coverage on the exchanges. Because minimizing age rating is an important component of ensuring affordable coverage, we also support the House bill's limit on age rating of 2:1.

**Adequacy of essential benefits package:** An "affordable" plan that fails to provide adequate coverage for a serious medical condition such as cancer is not true reform. The American Cancer Society is an evidence-based organization, and consistent with this commitment to science, ACS CAN has advocated for a minimum benefits package that is based on the best scientific and medical practice. ACS CAN strongly supports the House bill's definition of the essential benefits package and its actuarial value floors, which are higher than the floors in the Senate bill. A transparent, evidence-based process for defining meaningful coverage will contribute significantly to the important long-term goals of enhancing the quality of care and controlling costs.

**Annual coverage limits:** Medical debt is a major problem for people with serious medical conditions such as cancer. People with insurance who are receiving lifesaving treatment too often must confront annual or lifetime limits that threaten to cut off coverage for their care. The House and Senate bills both recognize the imperative of eliminating these barriers to meaningful insurance and true protection from a catastrophic health event. ACS CAN strongly supports the Senate provision adopted as part of the manager’s amendment that would eliminate caps on annual benefits after 2014 and requires annual limits established in plans before 2014 be sufficiently high to ensure “access to needed services.”

**High-risk plan for transitional coverage:** It is imperative that immediate relief be provided for those who are currently uninsured and trying to obtain coverage for a serious medical condition and we applaud both bills for providing such relief by establishing a high-risk plan. However, we support the House provision for this high-risk plan because it does not impose a rigid six-month waiting period before the uninsured would be eligible as is the case in the Senate bill. For a patient with cancer or other life-threatening disease, six months may be too long to wait for coverage.

**Workplace wellness:** Both bills contain provisions promoting workplace wellness, but they take fundamentally different policy approaches to the issue. ACS CAN opposes Senate language that codifies and expands current regulations allowing employers to dole out insurance-based financial incentives or penalties to workers as a condition of meeting one or more specific health standards. We are deeply concerned that this provision, which also extends premium-based incentives or penalties to the individual market, will create a barrier to health care. Premium incentives or penalties could reach as high as \$6,000 annually per worker, and employers are likely to shift the extra costs to workers who are unable to meet designated weight, cholesterol or other benchmarks. In fact, the Senate provision could have the effect of reintroducing insurance underwriting for health conditions on a large scale, effectively undermining one of the central tenets of health reform – the elimination of health status in determining insurance premiums and access to care.

ACS CAN supports the House workplace wellness provisions, which provide incentives to small businesses to undertake employee wellness programs while prohibiting insurance-based financial incentives based on an employee’s health status. The House bill also includes provisions to enhance the knowledge and understanding of what kinds of wellness programs work effectively. Health reform provides a unique opportunity to align workplace wellness efforts to promote and support healthy behavior and lifestyles while also providing reforms that ensure all Americans access to quality care, regardless of their health status. The House provisions are much better designed to accomplish this.

**National health insurance exchanges:** Under the Senate bill, health insurance exchanges would be primarily state-organized and controlled. Under the House bill, exchanges would be based on regulations promulgated by the U.S. Department of Health and Human Services. Recognizing a need to allow for state variation in the exchanges to

reflect local needs and preferences, a federal structure would ultimately provide more uniform quality of care, services and consumer protections. Moreover, to maintain stability of insurance markets it is critical that plans sold inside and outside the exchange system operate under the same rules and regulatory framework. This is by far the best way to prevent adverse selection between the exchange and non-exchange markets. Therefore, we strongly support the House provisions regarding exchanges and insurance markets.

**Implementation date for exchanges:** Increasing access to care through the establishment of insurance exchanges is extremely important to the fight against cancer. We strongly support the 2013 start-up date for the exchanges, as recommended in the House bill, and urge that necessary resources be made available to meet this timeline.

**Prevention and Wellness Funding:** Ensuring adequate investment in prevention services and programs is critical to improving the health of our nation, and both bills take an important step in this direction by establishing new funds for prevention and wellness. However, ACS CAN strongly urges that the merged bill include at least the \$33.9 billion, five-year funding contained in the House-passed bill.

**Preventive Services Task Force:** The United States Preventive Services Task Force (USPSTF) recommendations have elevated significance in both bills, and ACS CAN urges Congress to ensure that language in the final legislation supports a transparent, inclusive and evidence-based process for making recommendations about preventive services. Specifically, we strongly support the operational changes to the USPSTF adopted in the House bill, which have new relevance given that both bills stipulate that public and private insurance entities reference USPSTF recommendations when making coverage decisions. However, we ask that you clarify that the USPSTF recommendations constitute a floor, not a ceiling, for coverage decisions.

**Medicaid coverage of prevention:** ACS CAN prefers the House provision that mandates coverage for preventive services with an ‘A’ or ‘B’ rating by the USPSTF, which will expand access to critical services in the Medicaid population. We ask you to clarify that the USPSTF recommendation constitutes a floor, not a ceiling, for covered prevention services. Medicaid beneficiaries should receive the same level of coverage afforded to those covered by the essential benefits package in the private market.

**Medicare “doughnut hole” in Part D program:** Cancer drugs are an increasingly important, but extremely expensive, component in the treatment of cancer. Cancer patients pay the full cost of the doughnut hole and then incur the cost of significant co-pays once the catastrophic coverage threshold is reached. We strongly support the House provisions as the best way to address this problem.

**Medicaid Expansion:** Medicaid is a safety net program that currently fails to serve many low-income and indigent Americans, including those who have life-threatening diseases such as cancer. The successful National Breast and Cervical Cancer Early Detection Program has provided lifesaving cancer screening tests to thousands of low-

income women, but it has enough funding to serve only one in five eligible women. For many low-income individuals with other cancers, there is no recourse at all. Much more needs to be done for medically underserved populations. We strongly support the House position to expand Medicaid eligibility to those with incomes at or below 150 percent of the federal poverty level.

**Enrollment in benchmark Medicaid plans:** Due to the age and income characteristics of the newly eligible Medicaid population, it is reasonable to expect that this population will have more health and disability issues than many current Medicaid enrollees. We are concerned that the Senate bill requires newly eligible Medicaid beneficiaries to enroll in benchmark plans that may be inadequate for the needs of the potentially higher risk newly eligible, and that the structure of the co-pay requirements under the benchmark plans may not be financially viable for this population. We support the House provisions that enroll the newly eligible into the standard state Medicaid plan.

**Health disparities data collection:** Significant variations in cancer incidence and mortality exist today along ethnic, geographic and socioeconomic lines. These variations are a significant concern in the fight against cancer, but the reasons for them are not well understood. As a result, addressing disparities effectively is difficult. To better understand and track health disparities, reliable and comprehensive data are required. We strongly support the provisions in the Senate bill that require federal data systems to collect more comprehensive and reliable disparities data, and to produce timely analyses to publicly document and track progress in eliminating health disparities.

**Quality Measures and Payment Reforms:** ACS CAN is pleased that both the House and Senate proposals include development and implementation of quality care measures and associated payment reforms that will encourage patient-centered care. However, we believe the Senate's approach more effectively takes the initial steps needed to create accountability for relieving patient suffering and delivering higher quality, integrated care.

**Pain Management:** Both bills include important pain management provisions that will help ease suffering for cancer patients and survivors. ACS CAN urges the adoption of the House provision (Section 2561) in its entirety, together with the professional education and training provisions in subsection 4305(c) of the Senate bill. This subsection follows closely the education and training provisions of the National Pain Care Policy Act which has twice passed the House with ACS CAN's strong support.

**Clinical Trials Coverage:** Research conducted through clinical trials drives development of new evidence that will deliver the next generation of innovations to improve care and patient quality of life. ACS CAN strongly supports the Senate provision requiring insurance coverage for routine patient care costs for patients participating in clinical research studies. This provision eliminates a critical barrier to patient clinical trial enrollment and participation.

**Independent Payment Advisory Board:** While ACS CAN acknowledges the importance of curbing the rate of increase in health care spending, we are very concerned that the Independent Payment Advisory Board (IPAB) approach proposed by the Senate would interfere with other efforts and innovations geared to improve the quality of care delivered – initiatives that will be essential to achieving true health care reform. As constructed, the Senate provision fails to recognize the essential balancing role that patients and their health care providers must play in all medical policy decision-making to protect patient access to care and ensure that blanket cost-cutting policies do not exacerbate existing health disparities, particularly in medically underserved communities. ACS CAN urges that the IPAB provisions not be included in the final bill.

Thank you again for your determination to complete this historic legislation. We look forward to continuing our work with you and your staff to achieve the best legislation possible for American cancer patients, survivors and their families. If you have any questions, please do not hesitate to contact me or have your staff contact ACS CAN's senior director for federal relations, Dick Woodruff, at (202) 661-5709.

Sincerely,

A handwritten signature in cursive script that reads "Molly A. Daniels".

Molly Daniels  
Interim President