December 21, 2010

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

RE: Request That the Administration Seek Expedited Action on Cases Challenging the Constitutionality of the Patient Protection and Affordable Care Act

Dear Secretary Sebelius:

As you know, there are now several court cases challenging the constitutionality of the recently enacted Patient Protection and Affordable Care Act (PPACA) which are wending their way to the U.S. Supreme Court. One includes a lawsuit filed by 20 state attorneys general, and on December 13, 2010, a Federal District Judge in the Eastern District of Virginia ruled that the individual mandate provision of PPACA is unconstitutional.

HR Policy Association represents the chief human resource officers of more than 300 large private sector employers in the United States who collectively employ more than 10 million Americans. The large majority of these companies provide health insurance to their employees and their spouses and dependents, and a large number also provide insurance to their retirees. As the senior HR executive for their companies, they play a lead role in health care strategy, design, and implementation.

Beginning on the date of its enactment and continuing for several years into the future, PPACA requires employers to make substantial changes in the way health care is provided to employees and their dependents. Some individuals will begin receiving their health care through state exchanges beginning in 2014 while others will continue receiving care through their employers subject to the law’s new requirements. Among other obligations, the changes mandated by PPACA require significant administrative changes for these employers, and the states and the federal government are in the process of setting up the exchanges required by the new law. Right now, however, employers, governors, and employees cannot be certain what the health care system will require of them by March of 2013, the point at which the law directs employers to notify employees whether they will need to seek care through an exchange. If the U.S. Supreme Court were to rule the individual mandate unconstitutional, it would severely undermine PPACA’s financing scheme and require Congress to reopen the health care debate.

Employers in the United States have been reluctant to hire new employees and expand their workforces, in part, because of the uncertainty that permeates the nation’s business environment. The fact that the future of PPACA will remain in limbo until the Supreme Court makes its final
decision regarding the constitutionality of key elements of the new health care law is helping to fuel that uncertainty.

The Association, therefore, strongly urges the administration to take whatever steps it has at its disposal to obtain an expedited review by the U.S. Supreme Court on the constitutionality of the individual mandate under PPACA. We agree with The Washington Post in its December 14, 2010, editorial that “the earlier a definitive ruling on the law’s constitutionality comes, the better off the country will be.”

Thank you for your consideration.

Sincerely yours,

Jeffrey C. McGuiness
President

Cc: The Honorable Timothy Geithner, Secretary, U.S. Department of the Treasury
    The Honorable Eric Holder, Attorney General, U.S. Department of Justice
    The Honorable Hilda Solis, Secretary, U.S. Department of Labor
    Nancy-Ann DeParle, Director, White House Office of Health Care Reform