

June 11, 2014

Dear President Obama, Senator Harry Reid and Speaker Nancy Pelosi:

We write to request your leadership in resolving issues surrounding the Affordable Care Act. This vital law has allowed millions of Americans to gain access to health insurance. However, there remain weaknesses in the law that require fixing. One critical example is a new threat to working families that at least one large multinational company, Sodexo, implemented earlier this year that we believe is an abuse of regulations issued in February to define seasonal work under the ACA.

The clear intent of the ACA is to increase health care coverage for families across the nation. It is not intended to reduce or eliminate employer-sponsored coverage for workers who already have health care coverage – especially low-income families that can ill afford less of anything. We urge the Administration to continue to review needed changes to the regulations that will allow people who have coverage now to keep it.

Sodexo, a large multi-national food service company, has re-classified thousands of its full-time employees working in university, college and K-12 cafeterias as part-time, claiming that this is necessary “to match the Affordable Care Act definition of a full-time employee.” In fact, the statute does not require Sodexo do this. ACA regulations allow most companies to choose a “look-back” period of between 3 and 12 months. Sodexo chose to count the breaks in the academic calendar when it averages workers’ weekly hours. Thousands of Sodexo employees are at risk of losing company-sponsored health benefits as a result of Sodexo’s decision without any change in their actual hours worked.

Recent IRS regulations seek to prevent academic institutions from making this calculation for teachers and other employees. If companies contracted by schools, colleges and universities are allowed to ignore those rules, it opens a loophole for Sodexo to treat thousands of its employees differently than their colleagues in educational institutions.

Sodexo has even used this re-classification to take paid vacation and sick days away from workers – even though they are working the same number of hours. The loss of sick days will result in employees working when they are sick, to the detriment of the people they serve - millions of cases of foodborne illness each year are caused by sick workers contaminating food while they are at work.

This Sodexo misuse of the ACA must be eliminated. The “Sodexo loophole” must be closed – all employees impacted by the academic seasonal calendar should be treated equally. If Sodexo and other companies adopt compliance strategies that are a perversion of the ACA, they should pay the same penalty the ACA will impose on other large employers who refuse to provide health insurance to their employees.

Sincerely,

Sodexo Workers of Earlham College, Emerson College and Curry College