

United States Senate

WASHINGTON, DC 20510-4802

June 16, 2011

The Honorable Kathleen Sebelius
U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201-0001

Dear Secretary Sebelius,

Over the past year and a half, I have been deeply concerned about decisions by Century Aluminum to eliminate health insurance for hundreds of retirees and their spouses in West Virginia. The company first announced in October 2009 that it was eliminating supplemental coverage for Medicare-eligible retirees, and then announced in November 2010 that it was eliminating coverage for its early retirees who are not yet eligible for Medicare. These decisions have caused unimaginable hardship to these retirees and their families, which is why I have been looking for ways to help them keep their coverage.

One option that I have been pushing the company to pursue is the Early Retiree Reinsurance Program (ERRP), which provides payments directly to companies to help offset the costs of health insurance. By participating in this program, it was my hope that Century Aluminum would be able to offset its costs and continue providing coverage to all of its retirees beyond June 30, 2011.

After applying for and being accepted into this program, Century Aluminum abruptly announced in November 2010 that it was eliminating coverage for its under-65 retirees. At that time, the company offered to provide 6 months of additional coverage until June 30, 2011 – which they described as “COBRA” coverage, but may or not qualify as such – after which time coverage would terminate, leaving early retirees and their spouses without affordable coverage. In December 2010, when I asked the company to consider participating in ERRP as a means to continue providing coverage for its retirees beyond June 2011, I was informed that “[a]fter careful review of this program”, the company decided that they would not apply because “it simply did not go far enough” in offsetting its health care costs.”

That is why I was shocked to learn recently that Century Aluminum is in fact participating in the ERRP program and that, as of March 17, 2011, has been approved for taxpayer-funded reimbursements totaling \$458,389.00. Unfortunately, I have been informed that the company is still not planning to use any of the ERRP funding to provide coverage beyond its previous commitment of coverage until the end of June 2011.

I am very concerned that Century Aluminum’s acceptance of this funding – after announcing that it was terminating retiree coverage – is contrary to the purpose of ERRP, which is “to make health benefits more affordable for plan participants and sponsors so that health benefits are accessible to more Americans than they would otherwise be without this program.”

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I also believe it is necessary to clarify the very nature of the coverage that Century Aluminum is providing to its early retirees in West Virginia. When the company terminated benefits for retirees as of January 1, 2011, the company told retirees that it would pay 100 percent of what it termed "COBRA" premiums until June 30, 2011. However, it is unclear whether or not this coverage actually qualifies as federal COBRA coverage given that I have been advised that loss of early retiree coverage does not qualify as a "qualifying event" for purposes of COBRA coverage. For your reference, I have asked Secretary Solis to look into this question.

I am therefore asking that you investigate Century Aluminum's actions to determine whether the company is in full compliance with all applicable laws and regulations, and is fulfilling the commitments it made when it initially applied for the ERRP program. Specifically, I would ask that you provide:

- A full accounting of the funding that Century Aluminum has received from the Early Retiree Reinsurance Program, including how much has been paid for claims or coverage in West Virginia and how much has been paid to the company's employees or retirees in other states.
- An analysis of what Century Aluminum claimed it would provide its West Virginia retirees in its application, and whether it is fulfilling that promise.
- I would also ask for your analysis of the consequences for companies that are not using Early Retiree Reinsurance Program money in a manner consistent with the program's rules and regulations, and whether there is any opportunity here to insist that Century Aluminum offer a portion of its ERRP award to extend health coverage to West Virginia retirees beyond the current June 2011 commitment.

I want to be clear that the provision of health care coverage to retirees for as long as possible under any circumstances is my number one priority. Therefore, I am asking these questions with the goal of ensuring retirees get the full benefit of federal law.

I look forward to your prompt assessment of Century Aluminum's actions, and the steps you will take if you find that the company is not in compliance with the ERRP program and the promises it made when applying for the program.

Thank you in advance for your consideration of this request.

Sincerely,



John D. Rockefeller IV