

Suggested Points to Make to Senate Offices on “America’s Healthy Futures Act”

On Flexible Spending Account Provisions –

1. The \$2,500 proposed FSA cap is too low. It will be particularly damaging for patients with chronic illnesses.
2. The cap also will increase taxes on millions of middle-class Americans.
3. The lack of an index will result in the effective elimination of FSAs over time. Health care reform is supposed to be about giving people more options – not taking important options away from them.
4. The requirement for a prescription to get FSA reimbursement for OTC medications will drive up health care costs.

If a cap must be put in place, support amendments to increase it to the highest possible amount and to index the cap.

In addition, support efforts to remove the requirement for a doctor’s prescription for OTC medicines to be reimbursed under an FSA.

On Determination of the High-Cost Health Plan Excise Tax –

1. Including account based and excepted benefit coverage in determining the excise threshold will create strong disincentives for employers to offer these types of plans and take away an important tool in designing benefits that best meet their employees needs.

Support amendments to remove account-based plans and excepted benefit coverage from the threshold calculation.

On Health Savings Accounts –

Oppose elimination of HSAs.

Amendments of Interest to ECFC Members

| Amendments Sponsor/Amendment Number | Description |
|---|---|
| Schumer (D-NY), #R1 | Increase FSA cap set to begin in 2013 from \$2,000 to \$3,000. Apply same index to FSA cap as applied to the threshold for the excise tax (Note – Current proposal is CPI for the excise tax threshold). [Note – Modification of this amendment was accepted in the revised Chairman's Mark.] |
| Rockefeller (D-WV), #F2 | Eliminate HSAs beginning in 2010. |
| Cantwell (D-WA), #F1 | Equalize the tax treatment of Health Reimbursement Arrangements (HRA) established by all government employers. |
| Hatch (R-UT), #F3 | Exclude FSAs from determination of threshold for excise tax. |
| Hatch (R-UT), #F10 | Strike the provision to conform the definition of medical expenses for the Health FSAs to that of the itemized deductions for medical expenses. |
| Hatch (R-UT), #F11 | Conform the definition of medical expenses for purposes for itemized deduction for medical expenses to that for Health FSAs. |
| Hatch (R-UT), #F12 | Strike the increased penalty for non-qualified distributions from a health saving account. |
| Snowe (R-ME), #F3 | Increase FSA cap to \$3,000; begin cap in 2011; index cap to inflation. [Note – Modification of this amendment was accepted in the revised Chairman's Mark.] |
| Snowe (R-ME), #F9 | Exclude HIPAA excepted benefits from excise tax. |
| Kyl (R-AZ), #F6, Ensign (R-NV), #F1, Cornyn, (R-TX) #F4 | Eliminate FSA cap. |
| Bunning (R-KY), #F3 | Conform definition of medical expense for purposes of FSAs, HRAs, HSAs, Archer MSAs and the itemized deduction so that over-the-counter medical products qualify as a medical expense. |
| Roberts (R-KS), #R1 | Increase FSA cap to \$5,000 (no effective date specified); allows rollover of unused funds; indexes cap to inflation. [Note – Modification of this amendment was accepted in the revised Chairman's Mark.] |
| Roberts (R-KS), #R2 | Excludes FSAs, HRAs, HSAs, dental, vision and other supplemental plans from the threshold amount. |
| Roberts (R-KS), #R3 | Increase FSA cap to \$5,000 (no effective date specified); index cap to CPI. [Note – Modification of this amendment was accepted in the revised Chairman's Mark.] |
| Enzi (R-WY), #F1- | Increase FSA cap to \$3,000; index cap to CPI; allow for cash-out; begin cap in 2011. [Note – Modification of this amendment was accepted in the revised Chairman's Mark.] |