



EMPLOYERS COUNCIL ON FLEXIBLE COMPENSATION

927 15th Street, NW • Suite 1000 • Washington, DC 20005 • (202) 659-4300

David M. Carver, CFCI
Executive Director

BACKGROUND

SENATE: The Senate Finance Committee is contemplating two proposals explained below that would negatively affect the availability of FSAs.

1. Excise Tax: The Finance Committee is considering imposing an excise tax on health care benefits that exceed a specified threshold beginning in 2013. Although the threshold amount has not been finalized, reports suggest that the Committee may be considering \$21,000 for family coverage. Reports also indicate that contributions to FSAs and would be included in determining whether the health benefits package exceeds the threshold. If employees receive benefits exceeding the overall threshold employers and/or insurers would pay a 35 percent excise tax on the amount in excess of the threshold.
2. Cap on FSA Contributions: Reports indicate that the Senate Finance Committee is also considering imposing a \$2,000 cap on contributions to FSAs beginning in 2013.

HOUSE: The legislation approved by the House Committees would scale back the benefits of FSAs by prohibiting individuals from using their accounts for over-the-counter medicines.

TALKING POINTS

- FSAs are an important health care tool for both employers and their employees. FSAs help Americans afford their out-of-pocket health care costs. Even under a reformed health care system, patients will still face out-of-pocket expenses and we need FSAs to help us afford these expenses.
- Capping FSAs will disproportionately harm patients with chronic illnesses who tend to face very high out-of-pocket costs.
- Capping FSAs is a tax on health care and a tax on middle class Americans. I hope you agree that it would not be fair to pay for health care reform on the backs of chronically ill Americans and middle class families.
- Including FSAs in the calculation of the excise tax threshold will cause employers to scale back or eliminate FSAs (and potentially dental, vision, and other health benefits) to ensure they don't exceed the overall cap on employee benefits and trigger the excise tax.



EMPLOYERS COUNCIL ON FLEXIBLE COMPENSATION

927 15th Street, NW • Suite 1000 • Washington, DC 20005 • (202) 659-4300

- Imposing an overall cap would be extremely complex and burdensome for employers. Employers would have to calculate the excise tax for each employee and their varying benefits and coverage levels and likely have to account for benefits provided to spouses and dependents under their employer's plan.
- Eliminating OTC coverage will lead many patients to go to the doctor and get a prescription for a costly brand name drug covered by their plan. That won't drive down costs – in fact, just the opposite will occur.

Question: Do you support funding health care reform by taxing small businesses and the chronically ill and families by capping or eliminating FSAs and taking away OTC coverage?

We are asking you to:

- 1) Oppose taxing health coverage (including FSAs) by imposing a cap and excise tax on health benefits.**
- 2) Oppose proposals to limit the amount that Americans can contribute to FSAs**
- 3) Preserve individuals' ability to use their FSAs for over-the-counter (OTC) drugs**