

MVC Special Update on Health Care Reform January 15, 2010

As reported widely in the press, House and Senate negotiators have announced the outline of a deal on the financing mechanism for the health care reform legislation. The deal was reached after two days of meetings between the Congressional Leaders, President Obama and union representatives. There is an expectation that the Congressional Budget Office will shortly receive the information necessary from Capitol Hill to begin its work to score the proposal, which calls for:

1. increasing the threshold on the high-cost plan excise tax to \$24,000 from \$23,000 for family plans and to \$8,900 from \$8,500 for individuals;
2. changing the tax's effective date to 1/1/18 for some collective bargaining agreements, and state and local government workers;
3. providing for additional upward changes to the threshold for certain plans with older workers and women; and
4. exempting dental and vision plans from determining the threshold for the high-cost plan excise tax after 2014.

Late last week, the ECFC issued a statement to all House and Senate offices regarding the current negotiations on health care reform, [ECFC letter](#), urging Congress to adopt a number of modifications to the legislation, including:

1. Not capping FSAs, or at least increasing the cap and start the cap later (e.g., as the House bill does).
2. Should a FSA cap be imposed, updating the cap for inflation.
3. Removing FSAs and non-primary health care coverage from the determination of the threshold for the high-cost plan excise tax.

Although short of exempting FSAs from the excise tax, the increased threshold and removal of vision and dental benefits from the determination should have a positive impact on the continued availability of FSAs and other account-based plans. In our many conversations with Congressional staff, particularly Senate staff, they have informed us that we'd face an uphill battle to remove certain types of coverage – particularly FSAs and HSAs -- from the threshold determination. In their view, exempting FSAs and HSAs would create an incentive for employers to circumvent the excise tax by increasing deductibles and other cost-sharing, while at the same time making increased contributions to FSAs and HSAs available. That outcome would reduce the revenue achieved from the high-cost plan excise tax provision forcing them to find an alternative. Nevertheless, ECFC continues to implore Members to reconsider the negative effect that the inclusion of FSAs and other account-based plans will have on employers, employees and their families.

We will have a more in-depth discussion of the provisions of the deal during our Tuesday call and will provide additional details as they become available.