



For Immediate Release

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Sen. Hutchison Introduces The Patients’ Freedom to Choose Act

*Legislation Would Repeal Arbitrary Caps on FSAs and Mandate for
Prescriptions to Purchase Over-the-Counter Medication Using HSAs and
FSAs*

WASHINGTON, D.C. – Today, U.S. Senator Kay Bailey Hutchison (R-Texas) introduced The Patients’ Freedom to Choose Act, a bill that would repeal two provisions in the newly enacted health care law that limit a patient’s choice in how to use his consumer-directed health savings plans. The bill is co-sponsored by Senators Richard Burr (R-N.C.), Mike Enzi (R-Wyo.), Roger Wicker (R-Miss.) and Kit Bond (R-Missouri).

Starting in 2011, the health care bill will prohibit individuals from using funds from either Health Savings Accounts (HSAs) or Flexible Spending Accounts (FSAs) to purchase over-the-counter medication unless they have a prescription from their doctor. In addition, starting in 2013, the newly enacted law institutes a federal cap for all FSAs of \$2,500. Over 80 percent of all large employers that offer an FSA to their employees include a limit that is over this \$2,500 threshold.

Sen. Hutchison’s legislation repeals the arbitrary cap on FSAs by striking the \$2,500 restriction. It also repeals the provision that requires patients using HSAs or FSAs to have a prescription from their doctor before they purchase over-the-counter medication.

“Allowing individuals the flexibility and freedom to use health benefit accounts without contribution caps or the additional expense of an office visit to their physician have helped make these accounts so popular,” Sen. Hutchison said. “Patients were promised more choices and flexibility when the health care bill passed, but these provisions stifle both. My bill puts patients back in charge of how and when they’ll use the HSA or FSA benefits, and it prevents the federal government from imposing arbitrary caps that raise patients’ health care costs.”

HSAs and FSAs are innovative and popular health benefits that both large and small employers offer to their employees. These accounts allow individuals to set aside a certain

amount of money each year on a pre-tax basis in order to pay for various healthcare expenses. Because employee contributions are made before they are taxed, these accounts are another way to ease Americans' growing tax burden. America's Health Insurance Plans recently released a report that shows over 10 million Americans now are enrolled in HSAs. In addition, over 35 million people have FSAs and 85 percent of all large employers (those with over 500 employees) offer them as a benefit to their employees.

Before the health care law was enacted, there was no federal cap that an employer had to comply with in order to offer an FSA to its employees. Consequently, the median limit on FSA benefits offered by employers is \$4,500. Federal employees can contribute up to \$5,000 to their FSAs and state employees in 46 states, including Texas, have FSA contribution limits set at \$3,000 or more.

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