

The Council for Affordable Health Insurance



May 26, 2006

The Honorable Eric Cantor
U.S. House of Representatives
329 Cannon House Office Building
Washington, D.C. 20515

Dear Rep. Cantor:

On behalf of the Council for Affordable Health Insurance (CAHI), we are writing regarding our views concerning H.R. 5262, the Tax Free Health Savings Act of 2006. CAHI was organized in 1992 as a research and advocacy organization devoted to positive, market-based health care reforms that preserve freedom of choice for individuals and encourage a competitive health insurance market.

H.R. 5262 has many positive provisions that we support, including:

- **Allowing premium deductibility for Health Savings Account-compatible insurance.** This will lead to greater tax equity for the individual purchase of health insurance through a Health Savings Account (HSA), an issue long championed by CAHI.
- **Providing a low-income tax credit for HSA-compatible insurance.** CAHI supports tax credits for the individual purchase of health insurance.
- **Increasing the HSA contribution limits to health plans for out-of-pocket risk limit.** Allowing individuals to save up to the plan's maximum out-of-pocket risk limit (up to \$5,250 for individuals and \$10,500 for families in 2006) ensures maximum protection and peace of mind should there be a catastrophic health event.

Unfortunately, the bill is a mixed bag with provisions that we find seriously flawed, including:

- **Excess taxes on HSAs.** The legislation increases the penalty for non-medical withdrawals from 10% to 30%. And the bill creates new taxes on HSAs in the event of death, disability or retirement (Medicare enrollment penalty) of 15%. These new and increased tax penalties will have a chilling effect on the behavior of HSA users. HSA customers must know that they may access the money at some point in their lives without being punished. Imposing and increasing taxes will actually encourage people to spend the money frivolously today because of the heavy taxes imposed at a later date. We would oppose changing the current HSA law in this area.
- **Allowing employers to make greater contributions for chronically ill employees.** Our major concerns in this area are two-fold. First, the definition of "chronically ill" is at best vague. Who will define "chronically ill," and how will it be defined? Who decides if a person truly fits in that category?

Angela M. Hunter, CAHI Director of Federal Affairs

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Second, there will be disease-specific groups that will lobby to be included in the list of chronic illnesses, much like they do for mandated benefit coverage. We believe that allowing individuals to contribute to the maximum out-of-pocket risk limit will address the needs of most individuals likely to fall into the category of chronic illness.

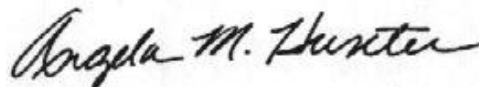
- ***Flexibility in coordinating FSAs, HRAs and HSAs.*** We find the legislative language vague in its discussion of HSAs, HRAs and FSAs. Our best understanding is that the bill changes the comparability rules and allows for the coordination of FSAs, HRAs and HSAs for five years. If the maximum-dollar amount applies across the board to HSAs, HRAs and FSAs, it is possible for an employer to contribute the maximum amount to an FSA/HRA, therefore eliminating any possible funding for the HSA. Additionally, money contributed to FSAs and HRAs is considered “employer” not “employee” money. If an employee switches employers, the money in an HRA is not portable, as it would be in an HSA. We support allowing FSAs and HRAs to roll over to an HSA plan. However, the allowable time period in the legislation is too long.

CAHI strongly supports HSA expansion, but we cannot support H.R. 5262 as introduced because the problematic provisions outweigh the positive ones in the legislation. It is our understanding that your office is eager to work with groups regarding their concerns with the bill. We look forward to working with you to find solutions that will change the equation leading to our support of H.R. 5262.

Sincerely,



Merrill Matthews
Director



Angela M. Hunter
Director of Federal Affairs