

September 30, 2009

The Honorable Max Baucus
Chairman
United States Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510-6200

Dear Chairman Baucus:

As you consider the America's Healthy Future Act of 2009, we ask that you please consider the importance of health promotion and disease prevention. Of particular importance are employer based wellness and prevention programs. We write today to specifically express our support for three amendments that encourage employee participation in employer-sponsored wellness programs: Senator Carper's Amendment 318 and Senator Ensign's Amendments 406 and 407. These amendments would increase the premium discount percentages that employers may use to reward employees for their participation.

The Chairman's Mark of the America's Healthy Future Act goes a long way toward restructuring incentives in our healthcare system to lower costs and improve outcomes. There is a general consensus that investments in employer-sponsored wellness programs reduce overall health care costs for employers and employees and generate savings for our health care system as a whole. Evidence suggests that incentives, such as premium discounts, encourage participation in wellness programs. By promoting wellness programs, the amendments filed by Senators Carper and Ensign promise Americans greater value for their health care dollars.

These amendments codify and improve the current regulatory framework for wellness plans under the Health Insurance Portability and Accountability Act (HIPAA). Existing regulations permit employers to establish premium discounts or rebates, or modify co-pays or deductibles, for employees who adhere to, or participate in, a program of health promotion or disease prevention. Currently, however, these rewards or incentives cannot be greater than 20 percent of the cost of employee-only coverage. Senator Carper's amendment would allow these permitted wellness rewards to be as generous as 30 percent of the cost of employee-only coverage; it would provide the Secretaries of the Departments of Health and Human Services, Labor, and Treasury with the authority to expand permitted rewards to 50 percent for adherence to programs of health promotion and disease prevention.

Senator Ensign has filed two amendments that share the goal of promoting wellness programs. Under Amendment 406, employees participating in wellness programs designed to reward with positive incentives can receive discounts or rebates for up to 50 percent of the cost of employee-only coverage. These wellness provisions would also apply to programs offered through the individual market and to programs offered through the proposed CO-OP and the Federal Employees Health Benefits Program. Senator Ensign's Amendment 407 limits the size of these rewards to 30 percent of the cost of employee-only coverage, but grants the Secretaries of

Health and Human Services, Department of Labor, and Department of the Treasury the discretion to raise the allowable discount or rebate to 50 percent.

All of these amendments maintain the existing privacy and non-discriminatory provisions of the HIPAA regulations. They include safeguards to prevent discrimination. None of the conditions necessary for a discount or rebate through participation in a health promotion or disease prevention program are based on health status factors. Reward programs must be reasonably designed to promote health or prevent disease. They must allow individuals that are eligible for a program the opportunity to qualify for the reward at least once a year. Rewards must be available to all “similarly situated” individuals. There must be a reasonable alternative available to those for whom medical conditions prevent them from achieving the reward, or to those for whom it is medically inadvisable to attempt to achieve the reward.

Health insurance premium discounts or rebates promote employee participation in wellness programs and will continue to have a cost saving effect on multiple levels for our health care system. They motivate healthy behaviors, as well as reduce health care costs. We strongly encourage you vote yes on these amendments.

Should you require any additional information or have any questions regarding this amendment, please do not hesitate to contact Katie Mahoney at 202-331-3140.

Sincerely,

American Benefits Council
Business Roundtable
Food Marketing Institute
HR Policy Association
National Association of Manufacturers
National Business Group on Health
National Retail Federation
Retail Industry Leaders Association
Society for Human Resource Management
The ERISA Industry Committee
The National Association of Health Underwriters
U.S. Chamber of Commerce