



AMERICAN BENEFITS  
COUNCIL

April 8, 2008

The Honorable Charles Rangel  
Chairman  
Committee on Ways & Means  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Jim McCrery  
Ranking Member  
Committee on Ways & Means  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Rangel and Ranking Member McCrery:

I am writing on behalf of the American Benefits Council in opposition to the Health Savings Account (HSA) substantiation requirement included in the introduced version of H.R. 5719 (the "Taxpayer Assistance and Simplification Act of 2008"), which is scheduled to be marked up by the Committee on Ways and Means later today. The American Benefits Council is a national trade association representing employers and other organizations that either sponsor or administer health and retirement benefit plans covering more than 100 million Americans.

Section 17 of H.R. 5719 would provide that distributions from an HSA for qualified medical expenses would be excludable from income only if they are substantiated in a manner similar to the substantiation requirements that apply to flexible spending arrangements (FSAs). This provision will unnecessarily increase administrative costs and complexity and adversely affect individuals who depend on high deductible health plans, coupled with HSAs, for health coverage. This issue deserves careful consideration and should not be included in a larger measure without a hearing and thorough examination of the consequences to millions of Americans who need HSAs to cover their day-to-day health care costs. As the cost of health care continues to increase faster than wages, Congress should not place additional costs and administrative burdens on workers, health care plans or the employers who sponsor those plans.

**The provision is unnecessary.** There is no evidence that current tax penalties and enforcement are not working. Amounts withdrawn from HSAs that are not used for qualified medical expenses are subject to steep tax consequences – taxation at the account owner's marginal tax rate as well as an additional 10 percent tax – that are enforced by the Internal Revenue Service. A Government Accountability Office report on Consumer-Directed Health Plans that examined IRS data found that 90 percent of amounts withdrawn from HSAs were for qualified medical expenses. Further study is required regarding other withdrawals from HSAs before any legislation is considered.

**The FSA substantiation requirements are not suitable for HSAs.** HSAs and FSAs are significantly different types of plans. FSAs are employer-provided plans under which a use-it-or-lose-it principle applies and withdrawals may never be used for anything other than qualified medical expenses. In addition, the vast majority of FSA withdrawals occur via non-electronic means. By contrast, HSAs are individually-owned, portable accounts under which the account owner can pay uncovered medical expenses while saving for future expenses and/or taking more control of health care spending decisions. The vast majority of HSA withdrawals are electronic. Since HSAs are in their infancy, their similarity to, and differences from, FSAs should be studied carefully prior to taking any action.

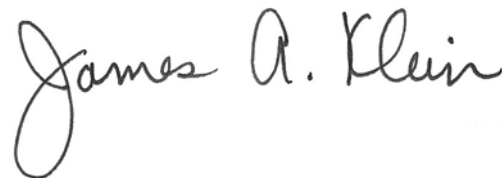
**The proposal would limit options for health coverage at a time when such options should be expanded.** Placing unnecessary and costly new administrative burdens on HSAs will make them less attractive to individuals who might adopt them and employers who might offer them as part of an affordable health coverage option. The development of HSAs has helped provide Americans with more affordable health plan choices, including many low- and middle-income families and individuals who previously had no health insurance coverage at all. At the beginning of 2007, 4.5 million people were enrolled in high deductible health plans that are used with HSAs, up from 3.2 million in January 2006. Moreover, a recent survey found that 27 percent of new plans were purchased by people who previously did not have health insurance.

**The provision should be considered separately on its own health care policy merits.** A significant policy change such as this that could affect the health care coverage of millions of Americans should be considered on its own merits – after Congressional hearings – not as a revenue-raising measure to offset the cost of completely-unrelated legislation.

Again, we strongly urge you to remove this provision from the bill.

We appreciate your consideration of our views. Please call Diann Howland, vice president, legislative affairs, at (202) 289-6700 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "James A. Klein". The signature is written in a cursive style with a large, looping initial "J".

James A. Klein  
President

CC: U.S. House of Representatives Ways & Means Committee