



AMERICAN BENEFITS
COUNCIL

October 28, 2008

VIA ELECTRONIC DELIVERY

The Honorable Max Baucus
The Honorable Charles Grassley
The Honorable Ron Wyden
The Honorable Mike Enzi
The Honorable Ben Nelson
United States Senate
Washington, DC 20510

Re: Discussion Draft of Legislation Requiring Form W-2 Reporting of Employer-Provided Health Care Costs

Dear Senators:

I am writing on behalf of the members of the American Benefits Council (the "Council") to offer comments on the October 7, 2008 discussion draft of legislation requiring Form W-2 reporting of employer-provided health care costs.

The Council's members are primarily major employers that provide employee benefits to active and retired workers across the country. The Council's membership also includes organizations that provide services to employers of all sizes for their employee benefit programs. Collectively, the Council's members either directly sponsor or provide services to retirement and health benefit plans covering more than 100 million Americans.

Our members fully support and share your goal about the need for increased transparency of information on health care costs, including the value of employer-provided health insurance. We agree that access to clear information helps consumers make better health care decisions and have been actively involved in several broad coalitions with other key stakeholders to help make our health care system more

transparent and accountable. In fact, many large employers are already communicating the cost of health benefits to their employees, frequently in the form of personalized total compensation statements, annual enrollment materials or interactive on-line resources. We believe that allowing employers to continue to choose the method of communication that works best for their workforce will ensure that employees receive health care cost information when it is most helpful to them and in a format that they are most likely to read and use.

One of our shared goals is to allow employees to make educated choices regarding appropriate health care coverage. When health care cost information is provided to coincide with an employer's health plan enrollment period, the employee is able to make a meaningful choice between coverage options based on that information.

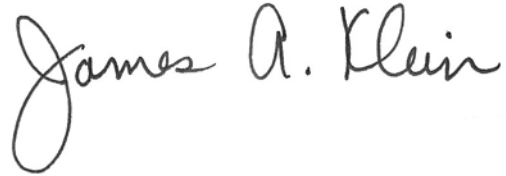
One of the significant disadvantages of requiring that health coverage information be reported on a W-2 is that it is not likely to reach most employees during any relevant decision period. In the vast majority of cases, W-2 forms are distributed in January while employee decisions regarding their health plan choices are commonly made several months earlier. Even those few who might focus on a new number on their W-2 form are likely to be confused since the information would have no relevance for tax payment purposes nor would it represent an adjustment to their taxable earnings.

Targeted methods of communication are far more effective than information provided on employees' W-2 forms that are designed for a different purpose. Health care cost information will only influence behavior if it is easy to understand and provided in the appropriate context. Employees are more likely to use the information provided in this manner to inform them of the consequences of their personal health care choices. Personalized total compensation statements or on line benefit decision tools that can be updated and accessed throughout the year have proven to be effective and highly valued resources for large numbers of employees.

In summary, we believe that the better way to accomplish this shared goal is to permit employers to determine the most effective means to communicate health cost information to their employees among a range of current practices. Alternatively, we would encourage you to consider directing the GAO, Department of Labor or Department of Treasury to examine current employer tools and practices for reporting health care cost information. This examination should also seek the agencies' views on the best options for improving ways to communicate effectively with employees on the cost of health coverage -- including whether a model notice to employees or similar approaches would help to advance this objective more effectively than the W-2 form reporting approach -- so that the best available options and common practices can be considered before a final decision is made. We stand ready to work with you to identify best practices among employers for informing individuals of the health care benefits they receive.

Finally, we have attached for your further consideration a short summary of several additional comments from our members on the discussion draft. Thank you for the opportunity to comment on the draft legislation and we look forward to working with you further on this important issue.

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

ATTACHMENT

Additional Comments from American Benefits Council Members on Reporting W-2 Reporting on Employer-Sponsored Health Coverage

- *Aggregate Reporting of Health Costs Will Not Provide the Whole Picture:* W-2 reporting of health costs would only provide a single number to the employee for a single benefit while total compensation statements or similar on line benefits information tools can provide more complete information among related categories of coverage (medical, dental, vision, disability, employee assistance programs, etc.) as well as other benefits such as 401(k) plans, pension plans, transportation support, or child care.
- *Administrative Challenges in Reporting for W-2 Purposes:* W-2 reporting would require employers to integrate information on the cost of health coverage for each employee with payroll reporting systems. This would be complicated for employers with differing plan years which may not coincide with calendar year reporting used for payroll purposes. Also, current methods for reporting health coverage information may be based on a “snapshot” of the plan that an employee participated in as of a certain date, while W-2 reporting would presumably require more detailed calculations that capture events which may occur throughout the year such as employee changes in plan options, late enrollments or partial year coverage, and changes in spousal coverage, covered dependents or other changes in family status.
- *Importance of Providing Information at the Right Time and In the Right Context:* Adding health cost information to the W-2 form will not provide employees the information they need at the right time or in the right context to motivate better decision-making. Current information provided by employers on health care costs can be timed to upcoming employee decisions about plan choices and used to inform employees about the participating in programs that can improve health quality and lower costs, including employee wellness programs, use of generic medications, centers of excellence programs and appropriate ways to engage as an active consumer in the health care system.
- *Reporting for Retirees:* The majority of retirees no longer receive W-2 forms or may receive a W-2 from a new employer for continued full or part time wages while receiving retiree health benefits from a former employer. Would former employers also be required to report on retiree health coverage on the W-2 form or would reporting be limited to active employees?
- *Possible Unintended Consequences of W-2 Reporting:* Information on the cost of health coverage which is reported on the W-2 form may be confusing for some taxpayers because it would not represent an adjustment to taxable income or be needed for any tax preparation purpose. However, because this information

would be required for federal tax code purposes, employers would be subject to new standards for the methodology for calculating and reporting this information and would have new compliance liability under the IRC and potential increased litigation exposure.

- *Health Reform Legislation May Necessitate Different Reporting:* New reporting requirements should be considered in the context of broader health reform legislation along with the timing, format, context and purpose of the information needed to help employees make better decisions on their health care options. In the meantime, GAO or other agencies such as the Department of Labor or Department of Treasury could be directed to examine current best practices used by employers today and provide recommendations on options for improving the tools available to employees to make appropriate health coverage decisions.