

November 19, 2004

The Honorable Charles E. Grassley
Chairman
Committee on Finance
United States Senate
SD-219
Washington, DC 20510

The Honorable William M. Thomas
Chairman
Committee on Ways and Means
United States House of Representatives
LHOB-1102
Washington, DC 20515

Dear Mr. Chariman:

As organizations representing those who either sponsor or administer health benefits provided to millions of Americans, we are writing you to urge your support for the approval of technical corrections legislation to address the unintended impact on different types of employee benefit plans caused by provisions of the Working Families Tax Relief Act of 2004 (the Act) which changed the definition of “dependent” under Code section 152. Specifically, we request a technical correction measure to address the unintended change in the definition of “dependent” for individuals covered by Health Savings Accounts (HSAs) under Code section 223 and dependent care spending accounts under Code section 129.

We understand the intent of Congress in changing the definition of a “dependent” under Code section 152 to more consistently define the term for five specific code provisions. However, because other provisions of the Code or underlying Treasury Department regulations also cross reference Code section 152 to define the term “dependent” for the purposes of employee benefit plans, several unintended consequences occurred which now need to be corrected. While the Treasury Department can assist with some of them, it will take action from Congress to address unintended changes to HSAs and dependent care spending accounts.

It is also very important that these technical corrections be made retroactive to the date of enactment of the Act because many employees have already made their 2005 benefit plan elections based on the prior law definition of a qualified “dependent” and are assuming their benefit plans will provide coverage to their dependents in the year ahead.

Thank you for your consideration of a technical corrections measure to help protect the continuity of coverage for dependents under employee benefit plans. We look forward to working with you on this legislation in the remaining weeks of this Congress.

Sincerely,

American Benefits Council
America’s Health Insurance Plans
Business Roundtable
ERISA Industry Committee
National Association of Manufacturers
National Business Group on Health
National Rural Electric Cooperative Association
National Telecommunications Cooperative Association
U.S. Chamber of Commerce