



TESTIMONY OF

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DIRECTOR, REWARDS AND EMPLOYEE RELATIONS
HALLMARK CARDS**

ON BEHALF OF THE

AMERICAN BENEFITS COUNCIL

BEFORE THE

**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND THE WORKFORCE
SUBCOMMITTEE ON HEALTH, EMPLOYMENT,
LABOR AND PENSIONS**

**“INNOVATIONS IN HEALTH CARE:
EXPLORING FREE-MARKET SOLUTIONS
FOR A HEALTHY WORKFORCE”**

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My name is Tresia Franklin, and I am Director, Rewards and Employee Relations, at Hallmark Cards (“Hallmark”). I very much appreciate the opportunity to testify before the Committee today on behalf of the American Benefits Council (the “Council”), on whose Board of Directors I serve.

Hallmark is a \$3.8 billion business with greeting cards and other products sold in more than 40,000 retail stores across the U.S. – including top mass retailers and the network of Hallmark Gold Crown stores. Our brand also reaches people online at Hallmark.com and through our retail partners’ web sites, and on television through cable’s top-rated Hallmark Channels and Hallmark Hall of Fame movies. Worldwide, Hallmark offers products in more than 30 languages available in 100 countries. Hallmark has approximately 5,000 benefits-eligible employees and also offers retiree health care benefits to approximately 2,000 individuals.

The Council is a public policy organization representing principally large, multinational companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council’s members either sponsor directly or provide services to health and retirement plans that cover more than 100 million Americans.

Hallmark and the Council share the perspective that employers have historically played – and continue to play – a critical role in the delivery of important health care benefits to millions of American workers. The manner in which employers have assumed this important role has certainly evolved over time and, as I will describe through today’s discussion of Hallmark as one case example, continues to evolve.

My testimony will first focus on the crucial legal framework that has encouraged and enabled the significant and beneficial involvement of employers in sponsoring employee health benefits. Second, I will discuss some of the more innovative and significant developments taking place today with respect to employer-provided health benefits. Using my company as a case study, I will conclude with a discussion of how Hallmark has reshaped its own health benefits to ensure that we are providing the most valuable benefits to our employee population, within the context of globalization and increasing business and cost pressures.

THE CURRENT LEGAL FRAMEWORK FOSTERS INNOVATION IN EMPLOYER-SPONSORED HEALTH CARE

The Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code together create the foundation for employers to provide valuable, innovative health benefits to their employees in ways that often cannot be replicated without that strong employer engagement. Private sector employers provide health benefits to 157 million Americans. It is essential that policymakers continue to recognize the unique

value of employer-sponsored plans, which significantly reduce burdens and costs on public programs and on individuals, in helping to ensure personal well-being for millions of Americans.

ERISA Preemption

Innovation in employer-sponsored health care thrives in an environment of regulatory certainty. This is, in large part, due to Congress' wisdom 40+ years ago when it included, as part of the enactment of ERISA, a provision that ensures that ERISA plans are free from most state and local regulation. As one congressman noted in statements made prior to ERISA's enactment, "[w]ith the preemption of the field, we round out the protection afforded participants by eliminating the threat of conflicting and inconsistent State and local regulation." 120 Cong. Rec. 29197 (1974) (Statement of Congressman Dent).

Although ERISA preemption preserves some application of state law with regard to employee benefit plans (in areas traditionally covered by state law, such as insurance, banking, securities, etc.), the preemption is very broad. It preempts any state law (which under ERISA includes "all laws, decisions, rules, regulations or other State action having the effect of law," including actions of state agencies or political subdivisions) that "relates to" an ERISA-covered employee benefit plan. The Supreme Court stated that a state law "relates to" an ERISA-covered employee benefit plan if it has some connection to ERISA plans. *See Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 46 (1987).

The question of how far ERISA preemption extends has been extensively litigated over the years, but the general purpose of ERISA preemption – to "eliminat[e] the threat of conflicting and inconsistent State and local regulation" – has largely been fulfilled, and it has provided employers with much-needed certainty as to the regulatory landscape applicable to their self-funded health care plans. Without ERISA preemption, employers would have to comply with a patchwork of varying state laws and monitor and adapt to constant state-level changes. Such an environment would make merely staying compliant with the potential myriad state and local laws (many of which could be in conflict with one another) a complex and costly task for employers. Additionally, such an environment would be inhospitable to employer innovation in the design and delivery of health benefits, because of the potential that the resulting innovation could run afoul of otherwise applicable state and local laws.

Tax Exclusion for Employer-Sponsored Health Coverage

Long standing tax rules that protect employees from tax on health coverage are a major reason employer-provided health insurance is so prevalent. The Internal Revenue Code provides a broad exclusion from gross income (for both federal income and payroll tax purposes) for employer-provided health benefits, including insurance premiums and other employer contributions to provide coverage, as well as the

payment or reimbursement of medical expenses not covered by insurance and contributions to certain health-related accounts. *See* Internal Revenue Code sections 105(b) and 106. The exclusion applies with respect to health benefits provided to a current or former employee (including a retiree) and an employee's family members. In general, employee contributions toward premiums are treated as provided by the employer for purposes of the exclusion if contributed by the employee via salary reduction through an employer-sponsored Internal Revenue Code Section 125 cafeteria plan.

The existing broad exclusion for employer-provided health care is crucial to employers' abilities to continue to provide dynamic health care solutions to their employees. The exclusion allows employers to mitigate the cost of providing benefits, with net gains to both the employee (in the form of the federal income and payroll tax exclusions) and the employer (in the form of the federal payroll tax exclusion and a healthier workforce).

The exclusion, combined with the need to continually develop and offer forward thinking plan designs and delivery mechanisms as part of a competitive benefits package, encourages employers to carefully identify and implement benefit strategies that are best-suited to their unique workforce and that align with rules governing employer-sponsored plans. This, in turn, motivates service providers and vendors to develop new state-of-the-art products and tools for employers to implement with respect to their workforce.

Although the tax expenditure for employer-sponsored health coverage is often viewed as regressive because the "tax benefit" appears to favor higher-income individuals, in fact, the expenditure is very progressive because the value of the "health benefit" it provides is more significant for lower-income individuals – for whom it would be a greater financial burden to purchase coverage absent an employer-sponsored plan. Middle-income Americans derive a much larger share of the *benefits* from the health plan exclusion than higher income individuals.

The Council also strongly urges Congress to continue the bipartisan effort to repeal the 40% tax on high-cost plans (the so-called "Cadillac Tax"). If Hallmark's plan triggered the "Cadillac Tax," it could seriously complicate our highly successful benefits and wellness initiatives.

For millions of Americans, employer-sponsored benefit programs are vitally important for assuring personal health and financial well-being. If employer-sponsored health benefits are to remain available to Americans, they must continue to be supported by stable tax policy that takes a long-term view.

CURRENT INNOVATIONS IN EMPLOYER-SPONSORED HEALTH CARE

The ability to innovate and make changes necessary to tailor benefits to a workforce's present need is crucial to balancing an interest in providing vibrant health care coverage to employees and their spouses and beneficiaries with the need to manage the continued growth in health care costs.

Although recent predictions of health care cost increases envisage the lowest such increase (at 4%) in 15 years, this is still more than twice the projected change in the Consumer Price Index. This demonstrates the demands placed on employers in managing such volatile cost growth. And, according to the Willis Towers Watson 2016 Emerging Trends in Health Care Survey, nearly four in five employers (78%) are planning changes to their health plan designs and strategies with the goal of managing health care cost and improving value.

Some of the strategies that are currently being utilized or considered by employers include:

- *Onsite/Near-Site Health Centers:* Providing access on or near the work site to medical care allows employees quick access to care not only for work-related injuries, but also for a variety of minor ailments or injuries. Such quick and easy access to care cuts down on employee "down time" due to medical issues while allowing employers to provide cost-effective care outside of the traditional confines of the group health plan.
- *Wellness and Disease Management Programs:* Because certain conditions, such as diabetes and obesity, drive significant health care costs, helping employees manage and, improve such conditions yields positive results for employees in improving their health and quality of life while also driving down health care costs. Employer plan sponsors are using a variety of methods to help employees achieve such results, including employer-sponsored wellness and disease management programs.
- *Telemedicine:* Electronic access to physicians or other providers – including via phone and online videoconferencing – has become increasingly popular, (Willis Towers Watson predicts the number of employers offering telemedicine visits to increase from 67% today to 90% by 2018). Telemedicine is another "win-win," offering cost-effective and convenient physician services to employees.
- *Centers of Excellence:* While about 31% of employers are using centers of excellence (i.e., medical providers that specialize in particular clinical services) today, that figure is expected to grow dramatically, and could be as high as 73% in 2018, according to Willis Towers Watson.

- *High-Performance Provider Networks*: Similarly, while about 13% of employers are currently utilizing high-performance provider networks (i.e., networks of providers that partner with employers and health plans to offer lower premiums and better value, all offered alongside broad networks), that figure is also expected to rise quickly, to as high as 56% in 2018.
- *Improving Employee Engagement via Technology*: Decision support tools and other engagement technologies are increasingly popular. For example, according to Willis Towers Watson, 52% of employers use technology to enable employees to make better plan selections, and that number could grow to 89% in 2018.
- *Use of Private Exchanges*: An area of considerable growth in the health care arena has been the use of private exchanges, whereby employees are given the ability to direct the purchase of health care coverage from among a group of insurers selected by the employer and using a defined amount of employer funds. Although such private exchanges can take many forms, they have generated significant interest and, increasingly, engagement from employers.

HALLMARK'S APPROACH

As mentioned, employers today may choose from any number of combinations of health plan tools. The strength of the system is that an employer can evaluate what works best from a business perspective and align its benefit offerings with its needs, as well as the needs of its particular workforce.

In many instances, employers have been at the forefront of innovation in benefit plan design and delivery. This has been made possible in large part by the important and helpful regulatory regime that I mentioned previously - including ERISA's preemption provision. Employers' desire for, and actual innovation in, the offering of health and welfare benefits to their employees has increased even more so over the past few years, particularly in light of the increasing costs, complexities, and changes that have been taking place across the health landscape.

Hallmark is no different; we have continuously worked hard to offer a suite of benefit options to our employees and retirees that provides them with valuable benefits while allowing the company to better control costs in this very competitive global marketplace in which we find ourselves. These benefits include offering health coverage through a private exchange as well as incentivizing employees to participate in numerous wellness activities.

Participation in the Aon Private Exchange

Prior to the 2015 plan year, Hallmark sponsored a self-funded major medical plan for our employees. While we were able to offer important health benefits to our employees with this plan, we became frustrated with the ever-growing cost of health coverage as well as the increasing complexities developing across the health landscape. The constantly increasing cost of coverage not only had an impact on Hallmark's bottom line; it also necessitated that we ask our employees to bear some of these growing costs in the form of higher deductibles and premiums. This led us to engage in a strategic evaluation of the benefits we were offering at that time as compared to other, emerging ways to offer health care to employees.

Effective for the start of the 2015 plan year, we moved our health coverage to the Aon private exchange platform. Hallmark employees can now shop on this private exchange with employer-provided premium dollars and choose among a collection of high-value fully insured major medical plans and carriers. Through this partnership with the private exchange, our employees have access to educational tools and decision support in the selection of the health insurance coverage that best meets their individual needs. Our move to the private exchange was premised on its goal of leveraging market competition (among carriers), simplifying and standardizing benefit design, and the possibility of changing the dynamics of health care benefits.

Hallmark – and our employees – have been very pleased with our move to the exchange. It has provided increased choice for employees, simplified plan design across carriers and provided our employees with state-of-the-art decision making tools. Although many major employers understandably want to continue to sponsor a self-insured health plan, from our company's perspective, the move from self-funded to fully-insured coverage has transferred the risks previously borne by Hallmark to the carriers, which has worked well for us in terms of controlling our health care spend. Moreover, carriers now handle the exceedingly complex decisions regarding, among other things, formularies, network reimbursement strategies, reference-based pricing, and employee appeals for specific coverages. In handling these decisions, carriers must keep in mind the need to compete for our employees' business. Overall, there is a significant incentive for carriers to compete with one another to get our employees' business – by developing efficient, effective, and customer-friendly products and processes.

Hallmark has always prided itself on offering valuable health benefits to its employees. One thing that we appreciate about the private exchange is that Hallmark still plays a critical role in our employees' health care as the plan sponsor of the Aon-exchange insurance group health plans, despite having moved much of the complexity to carriers. In particular:

- We continue to provide a significant pre-tax premium contribution to employees to pay for premiums on the private exchange. The amount of Hallmark's contribution is the same regardless of whether the employee chooses the most expensive or the least expensive benefit. Employees who choose a more expensive "gold" option pay more premiums out of pocket than those who choose a less expensive "bronze" option – but in either event, employees receive a base premium subsidy from Hallmark regardless of the coverage option that they choose. This allows for increased choice and efficiency in health care coverage. Moreover, because Hallmark offers an Internal Revenue Code Section 125 cafeteria plan in connection with the health insurance coverage options, employees' share of premiums are also paid on a pre-tax basis.
- We provide onsite and online education meetings to facilitate the employee's decision making, and we provide Aon's ongoing service support to answer employee questions and serve as advocates for our employees.
- We regularly evaluate the group health insurance plans offered on the exchange to help ensure they remain the best approach for our employees.

Wellness Initiatives

In addition to offering health coverage through the private exchange, Hallmark engages in other health and welfare initiatives as well. In particular, we have a long, rich history of commitment to employee wellness. Our founder, J.C. Hall, began providing a healthy on-site food service in 1923, and that tradition continues today. In 1956, Hallmark opened an onsite medical facility for employees' convenience and to provide extra support for medical care. In addition, since the 1980s, we have sponsored an integrated approach to employee wellness.

Our wellness initiatives have evolved over the years to reflect innovation in the wellness market as well as our current needs. Today, Hallmark Health Rewards is a program that rewards Hallmark employees with points that can be redeemed for gift cards, health care premium credits or contributions to a health savings account for participation in activities that encourage healthy behaviors such as getting a routine physical or attending an on-site health education seminar. In addition, we sponsor an annual Hallmark Health Fair, which hosts a variety of health vendors and services on site, including on-site health screening for our employees. Hallmark also has a subsidiary that helps other companies develop and communicate their own wellness strategies.

CONCLUSION

In summary, Hallmark found the previous one-size-fits-all approach that required Hallmark to be a health care delivery expert no longer worked for us. The beauty of the employer-based system lies in the ability of employers to select and use the approach that works best for them given their unique business needs and particular workforces. While the private exchange platform has worked well for Hallmark, we realize that it may not be the right choice for every employer. Accordingly, it is imperative that public policy allow employers to retain significant flexibility to innovate with regard to health benefits, including offering benefits on a self-funded basis or utilizing tools such as telemedicine or high performance provider networks.

At the end of the day, employers such as Hallmark would not be able to offer employees the benefits best suited to them without the flexibility afforded by the statutory and regulatory framework in place under both ERISA (with respect to preemption) and the Internal Revenue Code (with respect to the exclusion for employer-sponsored health coverage).

Thank you very much for the opportunity to testify today. I look forward to answering your questions.