



AMERICAN BENEFITS
COUNCIL

September 29, 2009

The Honorable Ron Wyden
United States Senate
Washington, DC 20510

Dear Senator Wyden,

I am writing to provide an additional explanation of our concerns with the Free Choice amendment (Wyden C-1) which may soon be considered by the Senate Finance Committee; and to respond to your concerns regarding our September 28 letter urging that the Committee not agree to this amendment.

We recognize that the Free Choice amendment differs from the broader employee voucher provisions in the Healthy Americans Act (S. 391) in that the amendment would require that employers either:

1. Offer a voucher to their employees who could then elect to remain in the employer's health plan or use the voucher to purchase coverage in a health insurance exchange; or
2. Provide at least two plan choices to their employees. These plan choices must meet additional requirements related to the premium amount for at least one of the plan choices and restricts any variation in the employer's premium contribution to the plan elected by an employee.

We remain very concerned that the Free Choice amendment would have a serious destabilizing impact on employer-sponsored health coverage for the following reasons:

Employers that select Option 1 would be required to provide their employees a voucher equal to the amount the employer would otherwise pay for the health coverage they offer to their employees. Our members have made it clear to us that they see this option as a non-starter for them. Under this option, employees who remain in the employer's plan would lose the value of the premium contributions from their co-workers who opt-out and obtain coverage in the insurance exchanges. This would result in higher costs for the plan sponsor as well as the employees who participate in the employer plan.

In addition, if a significant number of employees elect to leave the employer's plan, it would reduce the employer's purchasing leverage when negotiating with insurers or benefit administrators for the plans offered to their employees. Again, this reduced leverage would result in added costs paid by employers and employees.

Finally, this option would fragment employees into a wide range of different plans, some which are offered by the employer and others offered through the health insurance exchanges. As a result, it would be extremely difficult for employers to maintain integrated health improvement strategies such as disease management programs or care coordination initiatives, which help improve the health status of employees.

For these reasons, our members believe that Option 1 under the Free Choice amendment is unworkable and would unfairly require them to contribute to employees who opt-out of the plans they work hard to offer as affordably as possible to all of their employees.

Employers that select Option 2 would be required to offer at least two choices of health plans and ensure that the premium for at least one of the plan choices meets new standards relative to premiums for plans available in the health insurance exchanges. In addition, employers would be required to make the same premium contribution regardless of the plan selected by the employee. This option also poses significant problems for employers.

First, this option would not permit an employer to offer a single health plan choice, presumably unless the employer also complied with the voucher requirements under Option 1. However, these employers would then risk the destabilizing effects that would result from that approach as employees opt-out of the employer's plan. Some employers have moved to providing a single health plan choice in order to maximize their purchasing power and deliver the most affordable plan they can to their employees and minimize the added costs that accompany the offering of multiple plan options.

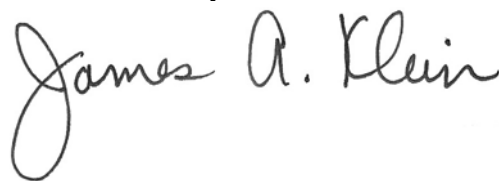
In addition, under this approach an employer which offers two or more plan choices would be required to ensure that at least one plan option has a premium that does not exceed the premiums of the average of the two lowest cost "gold level" plans in an area exchange. This would require employers to constantly monitor changes in premiums in plans offered in exchanges in every area of the country where their employees reside in order to ensure that their own premiums meet this new requirement. This would certainly add to the complexity of employers providing a choice of health coverage to their employees.

Finally, under this second option, employers who offer a choice of plans would be required to make the same contribution to the cost of the coverage “regardless of the plan selected by the worker.” This would unnecessarily restrict the ability of employers to vary their premium contributions to encourage employees to elect more efficient or effective health plans when a range of options are provided.

We believe that the Chairman’s mark is very carefully constructed to encourage employers to remain actively engaged as sponsors of health plans for their employees, while including significant reforms that are urgently needed in the individual and small group insurance markets. That is why we support the approach in the Chairman’s mark and have such serious concerns about the Free Choice amendment.

In conclusion, while we continue to urge that the Committee not approve the Free Choice amendment, we remain committed to working with you and all members of the Committee to help achieve health reform this year and advance our mutual goal of extending meaningful and affordable health care coverage for all Americans.

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: Members of the Senate Finance Committee