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Congress Declares War on HSAs

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While Congress has been debating health reform, employers have been creating new consumer-driven health care (CDHC) plans. In fact, CDHC plans are the only type of health insurance that has been shown to reliably change patient and doctor behavior in ways that lower costs and improve the quality of care.

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More than half of employers now offer consumer-driven options, including Health Savings Accounts (HSAs) or Health Reimbursement Arrangements (HRAs). In 2010, nearly 18 million people will be enrolled.

Federal legislation can stop progress in its tracks, however. For example, the health care bill passed by the Senate (December 24, 2009) does not directly outlaw HSA-eligible plans, but it restricts HSA options in insidious ways that will delay, deny, defeat and ultimately kill them.

The Senate Bill Favors Premiums Over Savings. HSA health plans are insurance plans that allow an individual and/or his employer to deposit funds into a special savings account. The funds are not subject to the income tax if withdrawals are used to pay out-of-pocket medical expenses. Right now, HSA plans are the only form of health insurance under which an individual's out-of-pocket exposure is limited by law. Currently, the limits are $5,950 for individuals and $11,900 for families. A plan could have lower deductibles and require patient copays up the total limit, or it could have deductibles as high as $5,950/$11,900 so long as the plan pays all costs above those amounts.

However, the Senate bill limits the deductible for small group plans to $2,000 for singles and $4,000 for families — roughly one-third the level allowed under current HSA law — with copays above the deductible. Many people would choose a $5,950 deducible over a $2,000 deductible and place the premium savings in an HSA. But this is a choice the Senate bill would deny them.

The Senate Bill Ignores Cost Reductions from HSA Plans. By empowering individuals, emphasizing personal responsibility, and encouraging more effective use of health care services, consumer-driven health plans have been shown to lower overall health costs more than managed care plans, such as Preferred Provider Organizations (PPOs). According to an American Academy of Actuaries study: "The total savings generated could be as much as 12 percent to 20 percent in the first year. After the first year, studies indicate trend rates lower than traditional PPO plans by approximately 3 percent to 5 percent." Yet, Congress has ignored the data and is set to limit the ability of the private sector to take advantage of these proven cost-control options.

The Excise Tax on Health Insurance Limits the Potential of HSAs. Under the Senate proposal, a 40 percent excise tax would apply to any health plan premiums exceeding $8,500 per individual. An individual who put the maximum

$3,050 into an HSA would have only $5,450 to purchase medical insurance, dental coverage, vision and all other federally-mandated health benefits. For individuals age 55 years or more, the maximum HSA deposit is currently $4,050. That leaves only $4,450 for health premiums before a 40 percent excise tax would apply.

An arbitrary, one-size-fits-all cap on tax-advantaged health costs will limit consumer options for HSAs.

Regulations Will Stifle HSAs. The Senate bill lists broad categories of health care without any specifics on treatments covered or financial limits that may apply. It says that the Secretary of Health and Human Services (HHS) "shall define the essential health benefits" that all individuals will be required to obtain and ensure that the coverage is "equal to the benefits provided under a typical employer plan." Since new HSA plan designs and concepts are by definition not "typical," new-generation HSAs will likely be restricted. An approach that allows only a narrow range of "typical" products will stifle creative solutions.

Regulatory Powers Could Make HSAs Illegal. Many in Congress oppose HSA plans and consider them "under-insurance." They believe, contrary to evidence, that HSAs are only for the young, healthy and wealthy. With broad powers, the Secretary could easily outlaw HSA plans by defining essential health benefits to include coverage that would violate HSA eligibility under federal law.

For example, the Senate bill would allow those under 30 years of age to purchase a special low-cost, individual catastrophic plan. But section 1302(e) of the bill requires the catastrophic plan to cover a minimum of three primary care visits. This requirement would disqualify the plan from HSA eligibility. All HSA plans could be killed by including such requirements.

Restrictions on Purchasing Over-the-Counter Drugs. The Senate bill would not allow HSA funds to be used to purchase most over-the-counter (OTC) drugs. This will greatly hamper the incentive HSAs give people to control drug costs.

"Health Savings Accounts lower health care costs and improve quality."

For example, as a prescription drug, Claritin costs about $2.50 a day. The OTC price immediately dropped to $1 a day and it is now about 50 cents. By prescription, the heartburn drug Prilosec costs about $4 a day. It is now available OTC for as little as 50 cents a day. Obviously, it makes no sense to prohibit patients from making these kinds of lower-cost choices.

Other Restrictions on the Use of HSAs. The Senate bill would increase the penalty for disallowed HSA withdrawals from 10 percent to 20 percent. Other restrictions may also be included in the final bill. For example, one proposal would require expensive third-party adjudication of HSA withdrawals to "prove" the expenditures were for medical care. Other (possible) proposals would limit the annual dollar amount that can be contributed to HSAs. Restricting HSAs is a process likely to continue as the reform debate winds forward.

HSA Rewards Left Out. New consumer-driven plans include financial rewards and incentives for healthy behaviors. The Senate proposal specifically outlaws using health status to determine premium rates. On a positive note, if a recognized "wellness program" is in place, some rewards other than premium discounts are allowed. However, letting an insurer or employer put dollars directly into an HSA account is not on the list of rewards that are allowed.

Price Controls. HSA plans allow younger adults to purchase catastrophic protection for premiums that are 30 percent to 40 percent lower than traditional insurance. Studies have shown that 30 percent or more of those purchasing HSA-eligible plans were previously uninsured. Actuarially, young adult claims are about 20 percent of older adults. But, the Senate bill would require premiums for young adults that are no less than 33 percent of the premiums charged to older adults. This will raise the cost of single and family premiums by 50 percent to 100 percent or more. Artificial government price controls will deny equitable risk pricing and defeat efforts to lower the number of uninsured.

Bottom Line. The proposed Senate health reform bill is designed to delay, deny, defeat and kill HSAs. It does not focus on improving health or health care. It is more about political power, centralizing federal control, growing government and expanding bureaucracies.

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