

May 16, 2008

## MEMORANDUM TO CLIENTS

**RE: Congressional Hearing Raises Concerns About Health Savings Accounts**

On May 14, 2008, the Health Subcommittee of the Committee on Ways and Means in the House of Representatives held a hearing on health savings accounts (HSAs) and high deductible health plans. In general terms, the discussion at the hearing was consistent with the current political landscape for HSAs. Republicans support them as a way to make consumers more cost conscious and as a way to cut the connection between health insurance and employment, while Democrats oppose them because they do not believe that they will bring down health care costs and believe that they are another "savings gimmick" for the rich. For example, on a party line vote, the House Ways and Means Committee passed legislation adding substantiation requirements to HSAs. (Our memo of April 8, 2008 discussed this provision.) Therefore, it was not surprising that the subcommittee hearing, chaired by Democratic Representative Stark, highlighted bad news about HSAs.

Rep. Stark opened the hearing by stating that it was his belief that HSAs and high deductible health plans were just a way to shift costs of health care from employers to employees and were not aimed at reducing medical costs. Rep. Camp, the Republican ranking member on the subcommittee, led the effort to support HSAs, stating that they increased the number insured, especially in the small group market. Three Democrats (Stark, Becerra and Tubbs-Jones) and three Republicans (Camp, Johnson and McCrery) actively participated in the hearing.

Five witnesses testified before the committee. The first witness was John Dicken from the Government Accountability Office (GAO). He briefly discussed the results of a recent GAO study on HSAs. Based on 2005 data from the IRS, the GAO found that:

- HSA owners had higher incomes than the general population,
- Less than 50 percent of those that were eligible for an HSA (i.e., have a high deductible health plan) owned an HSA,
- The numbers of HSAs opened continues to grow, and
- Much more money is contributed to HSAs than is taken out.

Democrats used those figures to assert that HSAs are being used by the wealthy as an additional way to put away funds on a tax advantaged basis. In contrast, Republicans questioned the data used by the GAO in its report.

Here is a link to the GOA report on HSAs:

<http://waysandmeans.house.gov/media/pdf/110/gaoh.pdf>

Other witnesses included:

- A professor of health care policy from Harvard Medical School, Dr. Michael Chernew, who questioned whether high deductible plans could successfully drive behavior toward lower cost medical care. His position was that their likely impact was to cause people not to get needed care. He also stated that, in general, consumers do not make rational economic decisions with regard to health care for a number of reasons. Surprisingly, neither Republicans nor Democrats followed up on this statement.
- An economist from the Urban Institute, Dr. Linda Blumberg, who claimed that the current structure of the HSA made it easy for people to take distributions from their HSA and not pay taxes on them. She recommended that substantiation requirements be placed on HSAs.
- Judy Waxman, Vice President of the National Woman's Law Center, who testified that high deductible health insurance is particularly bad for women since they have a greater need for health care services and have lower incomes on average, making it less likely that they will be able to contribute to the HSA or pay for services below the deductible. She also mentioned that individual high deductible health insurance policies often do not cover maternity benefits. (She did not address the availability of maternity benefits in other individual health insurance policies.)
- The lone supporter of HSAs and high deductible health plans among the witnesses was Wayne Sensor, the CEO of Alegent Health, who described his company's favorable experience with high deductible health insurance and HSAs and HRAs.

The testimony of the witnesses can be found at

<http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=632> .

Some of the discussion focused on whether HSAs were an additional tax-advantaged saving plan for the well-off and that they offered nothing of value to low income individuals. There was no discussion about the relative cost of the insurance premiums for high deductible health insurance versus traditional health insurance. Republicans raised the fact that approximately one third of those with high deductible health insurance were previously uninsured, but there was little discussion on that topic. There was a lot of discussion, led by Rep. Becerra, a Democratic Congressman from Los Angeles, about whether HSAs were a tax shelter for rich people and whether individuals were "cheating the government" on their tax returns stating that distributions were for qualified medical expenses.

All in all, none of the members of the Committee who attended the hearing appeared to change their views regarding HSAs. Since Democrats control the agenda, we anticipate more legislation in the future that will adversely affect HSAs. It is likely that this hearing will be used as a predicate for such legislation.

For more information on legislation regarding HSAs contact Bill Sweetnam, Brigen Winters, Christine Keller or Heather Meade.

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