

April 25, 2012

The Honorable Charles Boustany, M.D.  
U.S. House of Representatives  
Washington, DC 20515

The Honorable John Lewis  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Boustany and Ranking Member Lewis:

On behalf of the undersigned groups of the Health Choices Coalition representing physicians, consumers, retailers, manufacturers, pharmacies, pharmacists, pharmacy benefit managers, patients, insurers, small businesses and employers, we write to thank you for holding this hearing today to examine tax-preferred accounts for purchasing over-the-counter products. The coalition is concerned about the impact of the provision in the Patient Protection and Affordable Care Act (“PPACA”) that requires holders of tax-preferred healthcare accounts to obtain a physician’s prescription in order to use funds from those accounts to purchase an over-the-counter item.

The goal of PPACA was to expand access to affordable care for all healthcare consumers. Unfortunately, the provision that limits coverage of OTC medicines instead increases costs to the health care system and places a new, administrative burden on already over-burdened physician offices.

Consumers depend on OTC medicines as a first line of defense for their families’ healthcare needs. OTC medicines provide Americans with an effective, affordable, convenient and accessible means to address their healthcare needs. These medicines save consumers billions of dollars annually through reducing unnecessary doctors’ visits, increased productivity at work, and the cost advantages of using OTC medicines as a frontline treatment.

A recent study<sup>1</sup> found that OTC medicines contribute a total of \$102 billion each year in savings and cost avoidance in the healthcare system. In other words, for every \$1 spent on OTC medicines, the healthcare system reaps \$6-\$7 in savings. The availability of OTC medicines off-the-shelf and without a prescription provides medicines for an estimated 60 million people who would otherwise not seek treatment. OTC medicines are an essential part of the healthcare system and deserve equal tax treatment with prescription drugs and medical devices.

Furthermore, millions of American families rely on flexible spending arrangements (“FSAs”), Health Savings Accounts (“HSAs”), and other tax-preferred accounts to purchase these cost-effective medications. This issue is of critical importance to the estimated 19 million working Americans who rely on voluntary contributions of pre-tax dollars to FSAs to help meet their basic healthcare needs, including the purchase of safe, affordable OTC medicines. Prohibiting the use of FSA funds to purchase these medicines, or requiring documentation from a doctor that OTCs are being used to treat a medical condition, is already limiting access and greatly reducing the cost-efficiencies associated with these medicines.

---

<sup>1</sup> “The Value of OTC Medicine to the United States,” Booz & Co. 2012, on behalf of CHPA

A 2010 survey<sup>2</sup> found that more than 90 percent of Americans prefer to seek treatment with OTCs before seeing a healthcare provider. At the same time, nearly 90 percent of the physicians and pharmacists surveyed recommend that patients self-treat with OTC medicines prior to seeing a doctor. As a result, an overwhelming majority of pharmacists and physicians surveyed believe there is already an increased burden on medical professionals because of this provision in the healthcare reform law.

We believe this provision of PPACA limiting the use of tax-preferred accounts has resulted in unintended consequences to both physicians and patients. We thank you for your efforts in repealing this bad policy and remain committed to working with you and others in Congress to restore the ability to pay for OTC medicines with tax-preferred account funds.

Sincerely,

AARP  
Aetna  
America's Health Insurance Plans  
American Academy of Family Physicians  
American College of Physicians  
American Medical Association  
American Osteopathic Association  
American Society of Association Executives  
Associated Builders and Contractors, Inc.  
Bayer HealthCare Consumer Care  
Blue Cross Blue Shield Association  
Consumer Healthcare Products Association  
CVS Caremark  
Food Marketing Institute  
National Association of Chain Drug Stores  
National Association of Manufacturers  
National Community Pharmacists Association  
National Federation of Independent Business  
National Grocers Association  
Perrigo Company  
Retail Industry Leaders Association  
Sjögren's Syndrome Foundation  
U.S. Chamber of Commerce  
Walgreens  
WellPoint

---

<sup>2</sup> "Your Health at Hand" Survey, CHPA 2010