

May 10, 2011

The Honorable John Boehner  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Nancy Pelosi  
Democratic Leader  
U.S. House of Representatives  
Washington, DC 20515

Dear Speaker Boehner and Leader Pelosi:

On behalf of the undersigned groups representing physicians, consumers, retailers, manufacturers, pharmacies, pharmacists, pharmacy benefit managers, patients, insurers, small businesses and employers, we are writing to urge you to take action to stop the unintended consequences resulting from the restrictions placed on tax-preferred accounts reimbursing for over-the-counter (“OTC”) medications without a doctor’s prescription.

The goal of the Patient Protection and Affordable Care Act was to expand access to affordable care. Unfortunately, the provision that limits coverage of OTC medicines will instead increase costs to the healthcare system and place a new administrative burden on already over-burdened physician offices.

Millions of American families rely on flexible spending arrangements (“FSAs”) 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 health care needs, including the purchase of safe, affordable OTC medicines.

Consumers depend on OTC medicines as a first line of defense for their families’ healthcare needs. OTC medicines provide Americans with effective, affordable, convenient and accessible means to address their health care needs. These medicines save consumers billions of dollars annually through reducing unnecessary doctors’ visits, less time lost from work, and the cost advantage of 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, would limit access and greatly reduce the cost-efficiencies associated with these medicines.

A recent survey<sup>1</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 will be an increased burden on medical professionals because of this provision in the healthcare reform law.

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<sup>1</sup> “Your Health at Hand” Survey, CHPA 2010

We believe this provision has resulted in unintended consequences to both physicians and patients. We respectfully ask that you take action to lift the restrictions on tax-preferred accounts for OTC medicines in order to increase cost efficiencies in the healthcare system and give consumers control of their healthcare choices.

Sincerely,

Aetna  
America's Health Insurance Plans  
American Academy of Dermatology Association  
American College of Physicians  
American Medical Association  
American Osteopathic Association  
American Society for Association Executives  
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  
Prime Therapeutics  
Retail Industry Leaders Association  
Sjögren's Syndrome Foundation  
U.S. Chamber of Commerce  
WellPoint

cc: The Honorable Eric Cantor, House Majority Leader  
The Honorable Kevin McCarthy, House Majority Whip  
The Honorable Steny Hoyer, House Minority Whip  
The Honorable Dave Camp, Chairman, Ways and Means Committee  
The Honorable Sander Levin, Ranking Member, Ways and Means Committee