

July 11, 2018

The Honorable Lynn Jenkins
U.S. House of Representatives
1526 Longworth House Office Bldg.
Washington, DC 20515

The Honorable Ron Kind
U.S. House of Representatives
1502 Longworth House Office Bldg.
Washington, DC 20515

The Honorable Grace Meng
U.S. House of Representatives
1317 Longworth House Office Bldg.
Washington, DC 20515

Dear Representatives Jenkins, Kind and Meng:

On behalf of the Health Choices Coalition representing physicians, dentists, consumers, retailers, manufacturers, pharmacies, pharmacists, patients, insurers, small businesses and large employers, we write to applaud your efforts to restore over-the-counter (“OTC”) medications to full tax-preferred status, eliminating the need to first obtain a prescription. Your legislation, H.R. 6199, will create efficiencies and improve access to care within the U.S. healthcare system.

The goal of the Affordable Care Act (“ACA”) was to expand access to affordable care. Unfortunately, the provision that limits coverage of OTC medicines instead increases overall costs to the healthcare system and places an administrative burden on already over-burdened physician offices.

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 50 million working Americans who rely on voluntary contributions of pre-tax dollars to FSAs and HSAs to help meet their basic healthcare needs, including the purchase of safe, affordable OTC medicines.

Consumers depend on OTC medicines as a first-line option for meeting their families’ healthcare needs. OTC medicines provide Americans with effective, affordable, convenient and accessible means to alleviate the symptoms of minor to moderate ailments. According to a study¹ conducted by the Consumer Healthcare Products Association (“CHPA”), these medicines not only save consumers billions of dollars annually, but also the healthcare system, \$102 billion in total each year. This is accomplished through reducing unnecessary doctors’ visits, less time lost from work, and the cost advantage of OTC medicines. This means that for every dollar spent on OTC medications in the U.S., the healthcare system saves \$6 to \$7. 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, limits access and greatly reduces the cost-efficiencies associated with these medicines.

¹ Booz & Co., 2012, on behalf of CHPA

Survey² data suggest 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 have experienced an increased burden on their practices because of this provision in the health care reform law.

We believe this provision on the use of tax-preferred accounts for the purchase of OTC medicines has resulted in unintended consequences to both physicians and patients. We thank you for your efforts to restore the ability to pay for OTC medicines with tax-preferred account funds without the need for a prescription and for broadening the base of bipartisan support for this legislation by crafting a bipartisan bill that would also extend HSA/FSA eligibility to feminine hygiene products. We remain committed to working with you and others in Congress to advance this legislation that will increase cost efficiencies in the healthcare system and give consumers control of their healthcare choices.

Sincerely,

AARP

America's Health Insurance Plans (AHIP)

American Academy of Dermatology Association (AADA)

American Association of Family Physicians (AAFP)

American College of Physicians (ACP)

American Dental Association (ADA)

American Medical Association (AMA)

American Osteopathic Association (AOA)

American Society of Association Executives (ASAE)

Anthem, Inc.

Associated Builders and Contractors Association (ABC)

BlueCross BlueShield Association (BCBSA)

Consumer Healthcare Products Association (CHPA)

Employers Council on Flexible Compensation (ECFC)

Food Marketing Institute (FMI)

National Association of Chain Drug Stores (NACDS)

National Community Pharmacists Association (NCPA)

National Federation of Independent Business (NFIB)

National Grocers Association (NGA)

Retail Industry Leaders Association (RILA)

Sjögren's Syndrome Foundation

U.S. Chamber of Commerce

Wex Health

CC Representative Kevin Brady

Representative Richard Neal

² "Your Health at Hand" Survey, CHPA 2010