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The Honorable Orrin Hatch
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

BY HAND

Dear Mr. Chairmen:

The ABA's HSA Council represents approximately 90% of all Health Savings Accounts (HSAs) in the United States. We appreciate your strong support for HSAs and for helping millions of Americans become stewards of their health care financing.

The costs of health care continue to rise, most noticeably in the increase of deductibles and out-of-pocket expenses. Witness the Kaiser Family Foundation report, which states that annual out-of-pocket costs have increased 63% since 2011.[1] HSA owners finance out of pocket costs from their HSAs and they need your help. We believe that Americans will be turning to tax advantaged HSAs more frequently in the future as one way to satisfy rising costs with pre-tax dollars.

Accordingly, we wanted to provide some guidance on how best to help the greatest number of Americans access health benefits at the lowest possible cost.

First, while the Cadillac Tax has been delayed, its implementation – currently scheduled for 2020 - is driving coverage decisions now. It is imperative that Congress act to repeal the entire tax or failing that, to exempt contributions to HSAs from the tax. As a matter of best practice, we encourage employers to contribute to their employees' HSAs. If the tax survives, we know that employers will be highly reluctant to contribute to their employees' accounts if the contribution creates or ***could create*** a tax liability.

Second, we strongly support expanding the annual HSA contribution limit to equal the statutory out-of-pocket maximum for an HSA-qualified health insurance plan. The entire point of a Health Savings Account is to incent people to fund their routine care themselves instead of requiring and paying the insurer to fund it. This is one reason HSA-qualified plans are so affordable.

Third, HSAs are discriminated against when it comes to coordination with other benefits. Generally, an individual is not eligible to contribute to an HSA if they are covered by other

[1] 2016 Employer Health Benefits Survey, Kaiser Family Foundation

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insurance. We suggest that choosing HSAs should not mean also having to decline coverage through government programs. Last year, bills were passed in the House which would have allowed those covered by VA, Tricare, Medicare Part A or Indian Health Service (IHS) benefits to also be eligible to contribute HSAs. We would like to see bills that end the discrimination against HSAs and allow Americans to remain eligible to contribute to their HSA while also receiving benefits from government programs.

Fourth, we have been favorably convinced that HSAs can be an important tool for disease management if the flexibility to cover some procedures attached to chronic conditions were allowed on a first dollar or no cost sharing basis. Flexibility under current regulations allows HSAs to cover preventive care, as that term is defined in the code, should the plan sponsor or insurer so choose. We suggest that "preventive care" be defined more broadly so that plan sponsors and insurers that wish to cover a wider array of procedures below the deductible be allowed to do so without disqualifying the plan as an HSA-qualified plan (technically known as a "High Deductible Health Plan" under current law). In that regard, examples of broader or preventive care procedures that could help chronically ill patients include primary care visits, participation in employer medical clinics and disease management programs.

Fifth, there is no reason why HSAs should not be added as options in Medicare and Medicaid. We have long championed allowing Americans who spend their working life insured with these products to find the same kind of product design in retirement. We have robust proposals available that achieve this goal with complete actuarial studies substantiating the proposals; they should be given a hearing.

Similarly, we support the ability of states to choose how best to deliver Medicaid benefits and encourage you to follow the successful example of Indiana's HIP 2.0 program by ending the discriminatory waiver application process in favor of block grants to the states. Account based healthcare is widely popular and has the salutary effect of helping the Medicaid population develop the discretionary skills necessary to more efficiently manage their own health. We stand ready to assist you and the states on this matter.

Lastly, we were greatly encouraged, despite the outcome, that the House's recent health care reform package contained so many provisions from the Hatch/Paulsen legislation, of which we have been ardent, long-time supporters. Among the bill's other provisions are the following which we also support:

- Reduce consumer confusion and rename High Deductible Health Plans to HSA-qualified insurance;
- Simplify embedded deductibles;
- Allow catch up contributions for spouses to the same HSA;
- Provide federal escheatment and bankruptcy protection for HSAs:
- Allow organizations that want HSAs, like the Healthcare Sharing Ministries, to qualify; and,

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- Allow concierge medicine fees to be qualified expenses.

The Health Savings Act of 2017 (H.R. 1175 and S. 403), within which so many of these provisions reside, should be passed as soon as possible. The only provision of that bill we do not support is the provision which would allow HSA owners to pay premiums from their accounts.

Thank you, in advance, for your consideration of these requests.

Regards,

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cc:

The Honorable Paul Ryan
The Speaker
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The Honorable Mitch McConnell
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