

March 13, 2012

To: Representative Mike Coffman,
Chairman Subcommittee on Investigations, Oversight and Regulations.

From: Keith L. Small, DMD

SUBJECT:

Impact of The Health Care Reform Law on Cafeteria Plans -- Especially the Flexible Spending Account. (FSA)

HISTORY:

The Cody Dental Group, founded January 1, 1946, is now the oldest dental group practice in the United States. Currently there are 62 employees on our professional and auxiliary staff.

A Cafeteria Plan has been in place for our employees since 1986.

CAFETERIA PLANS:

The long-standing Cafeteria Plans have had three categories of coverage:

- 1.) Medical Insurance Premiums
- 2.) Flexible Spending Accounts (FSA) – maximum limit: \$8,000/year.
- 3.) Child/Day Care. – maximum limit: \$5,000/year

OBSERVATIONS:

I would like to focus attention on the Flexible Spending Account category of the Cafeteria Plan.

During the Health Care Reform legislative discussions/deliberations, numerous statements were made to the media that the new Health Care Reform Law would not negatively impact the “Middle Class” individuals with annual income below \$200,000 for single filers and \$250,000 for joint filers.

However, the new Health Care Reform Law has a MAJOR negative impact on the Flexible Spending Account category of the Cafeteria Plan:

Page 1.

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January 1, 2011: Coverage of the Over-The-Counter (OTC) health-related products was deleted. This has the greatest negative impact on the family units with children.

Coverage for the OTC health - - related products IS allowed with at physician's prescription - - but this places a time/overhead cost burden on the physician and perhaps an office visit fee on the patient.

January 1, 2013: The maximum Flexible Spending Account limit will now be reduced from \$8,000/year to \$2,500/year. This represents an almost 70% (68.75%) reduction in coverage!

For many years, individuals who were faced with major medical expenses in the coming year have been able to plan ahead and obtain coverage for the major costs. [For example - - the current cost for a pair of superior-performance hearing aids will range from \$7,000 to \$8,000.] The January 2013 maximum will not cover the cost of one hearing aid.

I would submit that this severe reduction does - - in fact - - target the very individuals at the lower end of the "Middle Class" salary scale that were "promised" that they would not be negatively "impacted" by the new Health Care Reform Law!

In the past, Flexible Spending Accounts were a "use it or lose it" proposition. Therefore, contributions to the FSA that were NOT used were forfeited. This provided the protection that there would not be a conduit that would allow unused Cafeteria Plan dollars to flow to the employee tax free.

Examples of two widely used prescription drugs and the annual costs involved:

Rx: Celebrex [Used to treat arthritis]
1 month supply: \$321.98
1 year supply: \$3,863.76

Rx: Nexium [Used to reduce stomach acid production]
3 month supply: \$605.85
1 year supply: \$2,423.40

Page 2.

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ONE LAST OBSERVATION:

The third Cafeteria Plan category is Child /Day Care. The maximum limit has been \$5,000/year for one parent. \$5,000/year will cover the typical cost for one child, but not for two or more children. However, if both parents have a Cafeteria Plan at their respective employment then that family-unit has a maximum of \$10,000/year to use for their Child/Day Care expenses. Since in our society there are many single-parent family units, would it not be more equitable to have a yearly maximum for the family unit, for this example, of \$10,000/year?

SUMMARY:

The Cafeteria Plan, in the format that has existed since 1986, has been a huge benefit to the employees in our small business. The abrupt change in the FSA medical OTC allowance on January 1, 2011 and the 68.75% reduction in the maximum benefit as of January 1, 2013, represents a major, sudden negative impact on the budgets of many of the fine, talented, hard-working employees with whom it is my privilege to work.

IF this is, in fact, an unintended consequence of the rushed passage of The Health Care Reform Law then corrective legislation would certainly be in order.

A handwritten signature in black ink, appearing to read 'Keith L. Small'.

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Page 3.

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