ALLIANCE TO FIGHT THE 40

Stop the 40% tax on health benefits

Don't Tax My Health Care

Save Employer Sponsored Health Benefits

May 30, 2019

The Honorable Charles Grassley
Chairman
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

cc: Senators Patrick Toomey (R-PA) and Robert Casey, Jr. (D-PA), Co-Leaders, Health Taskforce, Health_Tax_Taskforce@finance.senate.gov

Dear Chairman Grassley and Ranking Member Wyden,

As you work to examine temporary tax provisions through the Finance Committee's bipartisan taskforces, we hope you will expressly endorse repeal of the Affordable Care Act's (ACA) 40 percent "Cadillac Tax" on employer-provided health care. Originally scheduled to take effect in 2018, Congress has temporarily on a bipartisan basis extended the effective date due to its negative implications for working Americans. Although the tax will not take effect until 2022, employers are making changes to avoid the tax today. Full repeal is critical to providing long-term sustainability of our nation's health care system and is the correct policy conclusion and outcome for this misguided tax.

The Alliance to Fight the 40 ("the Alliance") is a broad-based coalition comprised of businesses, patient advocates, private sector and public-sector employer organizations, consumer groups, and other stakeholders that support employer-provided health coverage. This coverage is the backbone of our health insurance system and protects over 181 million[1] Americans across the United States. The Alliance appreciates Congress' efforts to delay the 40 percent tax as part of legislation enacted in 2015 and 2018. It is vitally important, however, that Congress fully *repeal* the 40 percent tax on employee health benefits to ensure that employer-provided health coverage remains an affordable option for working Americans and their families.

The "Cadillac Tax" is a 40 percent tax on health coverage above set thresholds that will take effect in 2022.[2] These costs include not only the employer and employee share of premiums, but also many other costs borne by employers (e.g. on-site clinics, preventive services such as cancer screening and immunizations, etc.). Working families are already stretched too thin and cannot afford higher health care costs. An election night poll on key issues in the 2018 midterm election showed that 81 percent of voters oppose taxes on employer-provided health coverage. Despite this overwhelming sentiment, the 40 percent "Cadillac Tax" is set to tax these benefits for the first time.

[1] U.S. Census: https://www.census.gov/content/dam/Census/library/publications/2018/demo/p60-264.pdf Table 1

[2] The effective date of the "Cadillac Tax" was delayed from 2020 to 2022 in the January 2018 HEALTHY KIDS Act (H.R. 195) to fund the government to February 8, 2018.

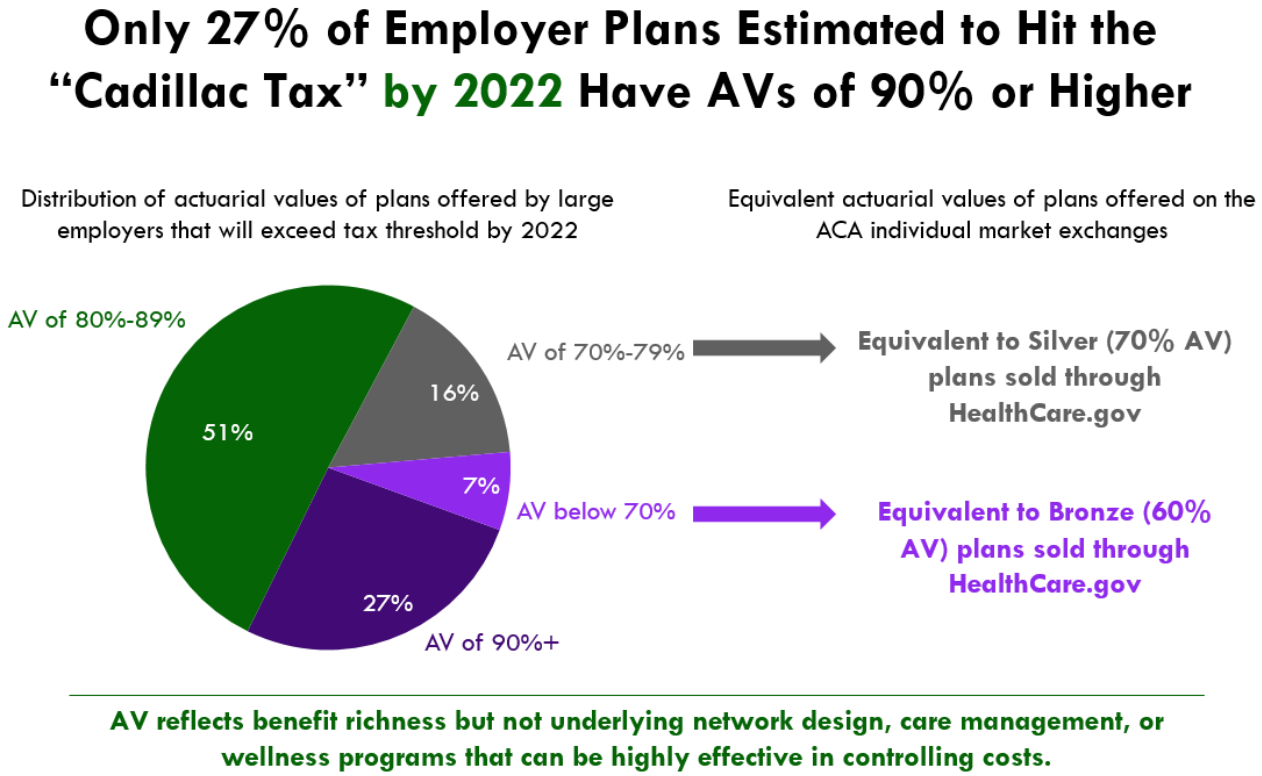
Repealing the 40 percent "Cadillac Tax" on health benefits is an important step in lowering health care costs and would benefit all patients and families that rely on employer-provided health benefits – the primary source of affordable quality coverage for working Americans.

DISCUSSION

Repeal the 40 percent "Cadillac Tax" on health benefits to protect access, choice, and affordability

Impact Far Beyond 'High-Priced' Plans. The ACA's 40 percent tax on employer-provided coverage is disrupting the health care marketplace by shifting ever increasing costs to workers. Contrary to the notion that only "gold-plated," high-value plans would be affected, the tax will eventually impact virtually *all* employer plans of both small and larger employers. The first plans to be hit will not be "Cadillac" plans that have the most extensive benefits – they will be plans that are expensive because they cover older Americans, retirees, women, families and individuals with chronic health conditions, those who have suffered catastrophic health events, and those living in higher-cost geographic areas. The tax will affect families and retirees from all walks of life and in many professions, including low-wage and part-time workers, public servants who protect our safety like firefighters and police officers, and workers in diverse professions and economic sectors including retail, education, health care, hospitality, and the clergy.

As illustrated by the below chart, it is the population covered by a plan – not the relative richness of the benefits – that determines whether a plan hits the tax. Twenty-three percent of the plans that trigger the tax in the first two years will have actuarial values in the lower (i.e. below 79 percent) allowable range. The minimum value plan prescribed under the ACA has a 60 percent actuarial value.



Note: The analysis was conducted before the tax's delay to 2022 and is based on 2014 medical plan premiums for the employer's highest-cost or only health plan, trended forward to 6%.
Source: Mercer's National Survey of Employer-Sponsored Health Plans.

Greater Cost-Sharing. The "Cadillac Tax" is already harming the most stable source of health coverage for Americans. Earlier studies by the American Health Policy Institute[3] and Aon Hewitt[4] indicate significant numbers of employers are already modifying their plan designs by increasing deductibles, co-pays and other cost-sharing features, to avoid paying the 40 percent tax. Although they are reluctant to do so, requiring employees to bear a larger share of the cost is the primary lever employers are compelled to use to decrease a plan's value. Higher cost-sharing curtails the ability of some lower and middle-class individuals to access their insurance. As deductibles rise, and approach $5,000 or more, many middle-income families who *have* insurance will not be able to access the medical system due to large out-of-pocket costs. According to a 2018 report, just 39 percent of Americans have enough money in savings to cover an unexpected $1,000 bill.[5] In the last decade, deductibles for individuals have increased by 212 percent.[6] The workers of those employers that contemplate paying the tax can expect their already large cost-sharing to rise even higher.

Stifling Private Sector Innovation. The punitive structure of the "Cadillac Tax" results in taxing health plan features that are designed to promote better health and reduce costs, such as employee assistance plans which help with drug addiction treatment, on-site health clinics, wellness initiatives, flexible spending accounts, health reimbursement arrangements, and employer and employee pre-tax contributions to health savings accounts – which are all counted toward the thresholds that trigger the tax. Even the cost of preventive benefits such as cancer screenings and immunizations is included, despite the fact that the ACA requires such benefits to be provided with no employee cost-sharing. Providing and administering health care coverage for employees is a significant expense for employers. Implementing the convoluted "Cadillac Tax" will only add complexity, cost and administrative burden for employers and employees— it will do nothing to address the actual cost of health care services.

Penalizing Employers for Factors Beyond Their Control. The 40 percent tax also taxes employers for factors they do not control. Employers with higher numbers of workers who have chronic diseases or larger families are disproportionately targeted by the tax, as are employers in specific industries, such as manufacturing or law enforcement. A study by the Economic Policy Institute found that because the tax is focused on high costs, not high levels of coverage, companies that tend to pay higher premiums – such as small businesses and employers with a high proportion of sick workers – could wind up paying the tax even though their benefits are not particularly generous.[7]

Geographic Disparities. Notably, employers with workers who live in higher-cost areas would pay more of the 40 percent tax for the same level of health coverage than people in lower cost areas. A 2014 report by the benefits consulting firm Milliman found that geography could potentially account for a 69.3 percent variation in premiums. For example, a plan that would cost $9,189 in one area would cost $15,556 elsewhere.[8] The report also demonstrated that the age and gender adjustments permitted under the law fail to compensate for the impact those factors have on premiums when combined with a high-cost geographic area and/or lower provider discounts.

Additionally, because the tax thresholds are pegged to the chained consumer price index, which is lower than health care inflation, every year an increasing number of health plans will be subject to the tax. In fact, 2017

[3] American Health Policy Institute, "ACA Excise Tax: Cutting Family Budgets, Not Health Care Budgets," October 2015, http://www.americanhealthpolicy.org/Content/documents/resources/AHPI_Excise_Tax_October_2015.pdf
[4] Aon Hewitt, "New Aon Hewitt Survey Shows Majority of Companies Taking Immediate Steps to Minimize Exposure to Excise Tax," October 16, 2014, http://aon.mediaroom.com/2014-10-16-New-Aon-Hewitt-SurveyShows-Majority-of-Companies-Taking-Immediate-Steps-to-Minimize-Exposure-to-Excise-Tax.
[5] Bankrate, "Most Americans don't have enough savings to cover a $1k emergency," January 18, 2018, https://www.bankrate.com/banking/savings/financial-security-0118/
[6] Kaiser Family Foundation, 2018 Employer Health Benefits Survey.
[7] Economic Policy Institute, "Increased Health Care Cost Sharing Works as Intended. It burdens patients who need care the most," May 8, 2013, http://www.epi.org/files/2013/increased-health-care-cost-sharing-works.pdf
[8] Milliman (study prepared for the National Education Association), "What does the ACA excise tax on high-cost plans actually tax?," December 9, 2014, http://www.nea.org/assets/docs/Milliman--What_Does_the_Excise_Tax_Actually_Tax.pdf

Mercer data found that 52% of employers would trigger the tax within the first five years of implementation, based solely on premium costs. This conservative estimate does not include other employer offerings that increase the likelihood of hitting the tax, such as employee assistance plans, on-site health clinics, and pre-tax contributions to health savings and flexible spending accounts.[9]

Measures to Reduce Health Care Costs

Instead of trying to raise revenue from working families through a blunt instrument like the 40 percent tax on employer coverage, Congress should focus on strategies that reduce the true cost of health care. Long before the ACA was enacted, employers were driving innovative delivery system reforms, experimenting with new payment structures, consumer education tools and innovative payment reforms like bundled payments, reference pricing, and value-based purchasing. Rather than imposing a new tax on top of already costly coverage, other efforts have more potential to drive down costs, such as: systematically measuring and reporting quality; reducing health care fraud and abuse; simplifying administrative burdens on providers and insurers; adopting interoperable health information technology; and programs that improve population health through a focus on at-risk populations and those with high needs and high costs. Additionally, reforms that improve meaningful price transparency and enhance consumer tools would be welcomed by patients and their families.

Proposals to tax employee health premiums suffer many of the same defects as the "Cadillac Tax"

The Alliance believes it is important to consider the lessons learned from the troubled "Cadillac Tax" so future policy recommendations will avoid similar pitfalls. Policy options that rely on limiting the current tax exclusion that employees receive for employer-provided health coverage may unintentionally cause similar market distortions and harm to working Americans and their families. To achieve the goals of affordable health care, any new policy proposals should not disrupt elements of the current employer system that work well.

We offer the following lessons learned from the impending "Cadillac Tax" that should inform future policy decisions:

- **Taxing health care hurts middle income families and retirees.** Joseph Antos, Ph.D., Wilson H. Taylor Scholar in Health Care and Retirement Policy for the American Enterprise Institute, in his testimony before the House Ways and Means Committee, pointed out that the "Cadillac tax has serious defects." Antos highlighted that "low-wage workers are disadvantaged by the Cadillac Tax" and that "the Cadillac Tax will eventually impact everyone with employer coverage." Proposals that directly tax employees could mistakenly recreate these problems.

- **Reducing incentives to participate in employer coverage could increase government spending.** Employers contribute on average about 70 percent of the cost of employer-provided health care coverage. This is a significant benefit to the 181 million individuals receiving employer-sponsored coverage and it reduces the need for costly government subsidies to help individuals afford health care services.[10] According to CMS expenditure and enrollment data, employers spend an average of $5,727 per beneficiary while Medicare and Medicaid spend $12,046 and $7,941 per beneficiary, respectively. In addition, the American Benefits Council found that for every dollar of tax expenditure attributed to the employer coverage tax exclusion, employers paid $4.45 to finance

[9] Employers with 500+ employees; Estimates based on: premium costs (medical plan only) from Mercer National Survey of Employer-Sponsored Health Plans 2017, trended at 4.7percent; excise tax threshold trended at CPI+1 in 2019 and CPI in future years; CPI estimated at 2.0percent, chained CPI at 1.75 percent. Threshold in 2018: $10,200 for employee-only coverage, $27,500 for other than self-only coverage.

[10] A 2014 study of health care expenditures by the American Health Policy Institute found that the federal government is spending nearly three times as much on health care for its beneficiaries as employers are spending to cover their employees.

health benefits.[11] Enabling the provision of health coverage through a tax incentive is far more efficient than providing the same benefits through government-funded public programs. Employers are a critical force in the market, negotiating with plans and providers to keep costs down and quality high. Employers also help employees navigate the complex health care system, improving their ability to act as informed consumers and providing them with tools to improve their health such as wellness plans and on-site medical clinics. Health and tax policy should encourage employer-sponsored coverage – not tax it.

- **Taxing health care coverage does not directly affect the unit cost of health care**. The "Cadillac Tax" does not address the true costs that comprise the health care delivery process. It also does nothing to improve the actual health of American workers. The majority of health care costs are primarily driven by a relatively small population with high cost health care needs. Taxing their health coverage does not reduce their utilization of health services – it just makes it more expensive. For example, in 2017, the Health Care Cost Institute found that price increases drove per-person spending growth among the employer-provided population. While average prices for services increased 17.1 percent from 2013-2017, average utilization declined 0.2 percent.[12]

- **Taxing health care coverage results in a loss of coverage options.** The Congressional Budget Office (CBO) estimated that one alternative, a cap on the exclusion of $7,800 for individual coverage and $18,500 for family coverage, would cause 3 million fewer people to have employment-based coverage than current law.[13]

- **Employer-sponsored insurance is efficient, effective, and affordable for working Americans and their families.** Employers have numerous incentives to manage costs and improve health outcomes by investing in innovative approaches such as on-site medical clinics, employee wellness programs and other initiatives. Ironically, such innovations would be penalized by the "Cadillac Tax," which treats such programs only as expenditures that help to trigger the tax. Elimination or capping the tax exclusion would have a similar impact if these innovations are subject to tax. Employers also provide valuable assistance to employees regarding their health coverage, including assistance selecting the best health plans, resolving claims questions, choosing higher quality providers and other assistance. Changes that undermine or weaken the employer-provided insurance market, like the "Cadillac Tax," could force more people to be uninsured, enroll in Medicaid or go to the individual market for insurance, a market that is not as efficient, not as innovative, and likely not as affordable as employer-provided coverage.

CONCLUSION

As the Committee considers long-term solutions for temporary tax policy and continues its focus on health care costs, we urge lawmakers to repeal the 40 percent tax on employer-provided health coverage. We hope policymakers will focus on reforms that preserve and protect employer-provided health care and achieve true savings and sustainability of the system—not artificial cost-shifting to workers and their families but promotion of high-quality, affordable care and elimination of fraud and waste in our health care system.

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[11] American Benefits Council, "American Benefits Legacy: The Unique Value of Employer Sponsorship," October 2018, https://www.americanbenefitscouncil.org/pub/1dd3e00e-c823-6e88-89f4-35e547e284fc

[12] Health Care Cost Institute, "2017 Health Care Cost and Utilization Report," February 2019, https://www.healthcostinstitute.org/research/annual-reports/entry/2017-health-care-cost-and-utilization-report

[13] CBO, "Options for Reducing the Deficit: 2019 to 2028," December 2018, page 235, https://www.cbo.gov/system/files?file=2018-12/54667-budgetoptions.pdf

Thank you for the opportunity to work with the Committee. We look forward to working with Congress to provide permanent relief from the "Cadillac Tax" and to support other health care reforms that strengthen our health care system.

Respectfully,

The Alliance to Fight the 40

For more information about the tax, the Alliance to Fight the 40, or this statement, please contact: info@fightthe40.com