

Statement for the Record
By the
Employers Council on Flexible Compensation (ECFC)

Hearing of the Subcommittee on Health
of the Ways and Means Committee of the House of Representatives
“Lowering Costs and Expanding Access to Health Care through Consumer-Directed Health Plans.”

The Employers Council on Flexible Compensation (ECFC) is appreciative the Subcommittee’s interest in consumer-directed health plans as a means of lowering costs and expanding access to health coverage. We are writing to provide the perspective of ECFC’s membership on various issues that may be under consideration as the Committee addresses improvements to our healthcare system and make health care costs more manageable for working families.

ECFC is a membership association dedicated to preserving and expanding employer-provided tax-advantaged benefit choices for working Americans, including account-based benefit plans which provide benefits in areas such as health care, child care, and commuting. These benefits empower employers to support working families with their life needs and remain productive members of the workforce. ECFC’s members include employers who sponsor employee benefit plans, including Health Reimbursement Arrangements (HRAs), Flexible Spending Arrangements (FSAs) (including dependent care assistance FSAs), and health savings accounts (HSAs), commuter and parking benefits as well as insurance, accounting, consulting, and actuarial companies that design or administer employee benefit plans. ECFC member companies assist in the administration of cafeteria plan and health benefits for over 33 million employees.

Importance of Consumer-Directed Health Arrangements

ECFC has been monitoring data that shows the importance of consumer-directed health accounts.

Census data from 2016 and a Mercer national survey on employer-provided health plans found that:

- Overall, close to 35 million people use consumer-directed health accounts to pay for their health care needs.
- 85% of large employers offer consumer-directed health accounts. Average election amount is \$1,356.
- 29% of small employers offer consumer-directed health accounts. Average election amount is \$1,152.

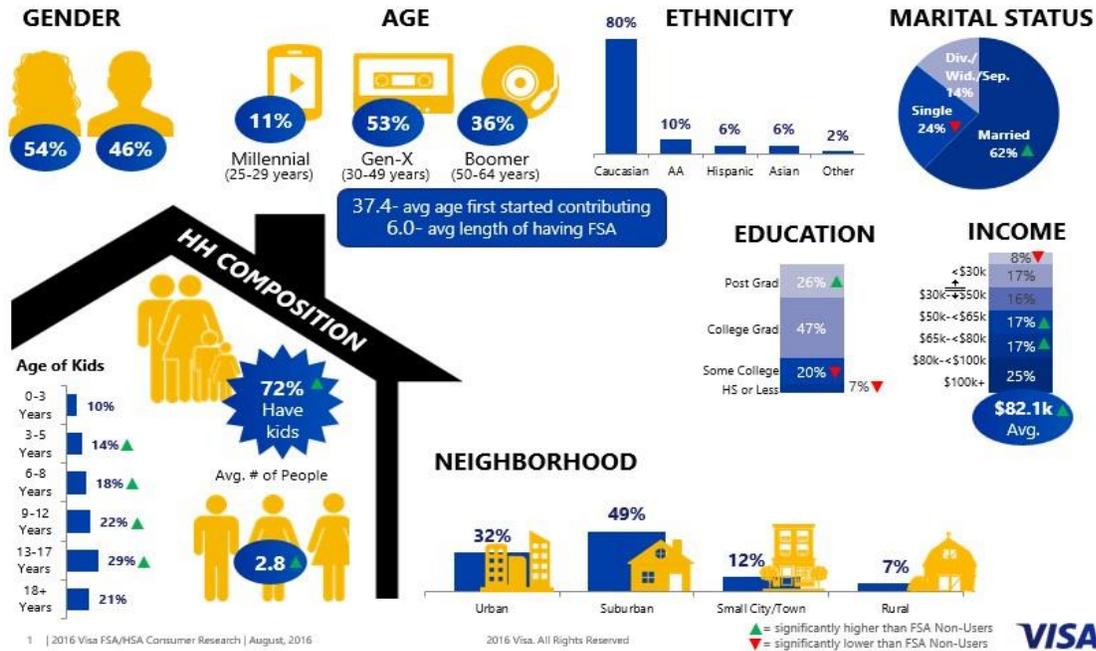
The *National Health Interview Survey* for 2017 by National Center for Health Statistics of the U.S. Department of Health and Human Services found:

- In 2017, 43.7% of persons under age 65 with private health insurance were enrolled in a high deductible health plan, including 18.2% who had an HSA and 25.5% without an HSA.
- The percentage of people under age 65 enrolled in a high deductible health plan with an HSA has more than doubled since 2010, increasing from 7.7% in 2010 to 18.2% in 2017.

FSA's are Middle-Class Benefits

According to survey data compiled by Visa, an ECFC member company, FSAs are a middle-class benefit as the graphics below demonstrate.

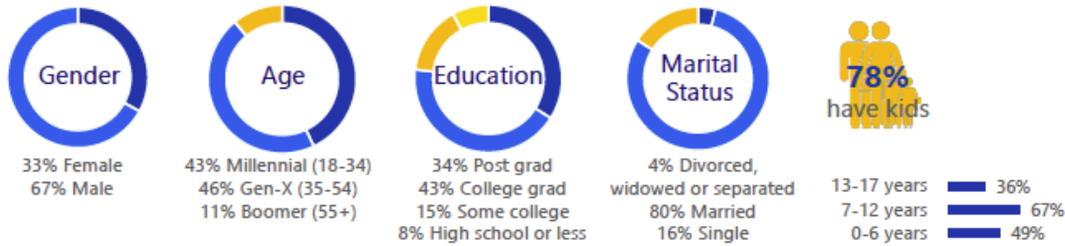
FSA Users are more likely to have families, over half make less than 65K, and 20% are minorities.



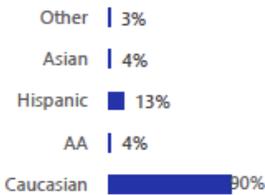
Similarly, the survey data regarding users of HSA shows that they have broad appeal over a spectrum of middle-class working families.

HSA owner demographics

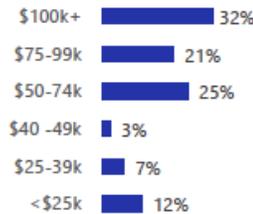
Personal



Ethnicity

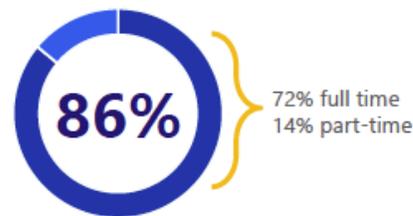


Income



Average income = \$89.7k

Employment



Movement toward consumer-directed health plans by employers

As reflected in the National Center for Health Statistics' report, many employers are moving toward higher deductible health plans or plans that increase the cost sharing amounts borne by employees. In fact, almost half of all working Americans are covered by such arrangements. In addition, employers are acting to reduce the costs of their health coverage options yet continue to protect employees from higher out of pocket costs by moving to account based, consumer-directed arrangements. According to a survey by the National Business Group on Health ninety percent of employers are offering consumer-directed health arrangements to their employees (either as an exclusive option or as an option). According to this same NBGH survey, offering consumer-directed health arrangements is considered the most effective means of controlling health care cost increases by employers. Consequently, consumer-directed benefit arrangements, such as FSAs, HRAs and HSAs, are of increasing importance to American workers.

Legislation is Needed to Expand and Increase the Use and Sponsorship of Consumer-Directed Health Plans.

Today, health care is the main burden on family budgets and can cripple their ability to remain independent and productive members of the workforce and their communities. ECFC membership believes that HSAs and FSAs should be expanded in the market place to provide families and individuals with the ability to manage their health costs and decrease the financial burden that results from an unexpected and expected health care crisis.

We appreciate the Subcommittee's interest in consumer-directed health plans as evidenced by this hearing. We also appreciate legislation proposed by members of the Ways and Means Committee that attempt to expand and increase the use and sponsorship of consumer-directed health plans.

- H.R. 5138, the Bipartisan HSA Improvement Act introduced by Reps. Mike Kelly (R- PA) and co-authored by Rep. Earl Blumenauer (D-OR) with Reps. Erik Paulsen (R-MN), Ron Kind (D-WI), Terri Sewell (D-AL), and Brain Fitzpatrick (R-PA) as co-sponsors. This bill makes changes to the rules surrounding HSAs and FSAs that we believe will make HSAs and FSAs more widely available. We support the intent of this bill and look forward to working with the authors of this bill to make sure that its changes can be readily administered by plan sponsors and administrators.
- *H.R. 1175, the Health Savings Act introduced by Rep. Erik Paulsen with Rep. Mike Kelly (R-PA and Lynn Jenkins (R-KS) as co-sponsors.* ECFC supports this bill which will address many of the issues surrounding HSAs that inhibit the growth of HSA.
- *H.R. 1204, the Responsible Additions and Increases to Sustain Employee Health Benefits Act of 2017 introduced by Rep. Steve Stivers (R-OH) with 38 co-sponsors.* This bill would specifically increase the annual limit on employee salary reduction contributions to \$5,000, with an additional \$500 for each additional employee (as adjusted for inflation after 2017) and allow a carryforward into the next year for unused amounts. ECFC supports this bill since it recognizes that FSAs provide an important tax-efficient means for employees (especially low and middle-income employees) to budget for their health care expenses and provides for an expansion of opportunities for employees to use an FSA to budget for payment of their health care expenses.

The Detrimental Effect of Excise Tax on High-Cost Health Plans on Consumer-Directed Health Plans

The Affordable Care Act (the ACA) created a new excise tax, commonly referred to as the Cadillac Tax, on certain high-end health care plans. Currently, when determining what constitutes a "Cadillac" plan, an overly broad net is cast including many employer- sponsored arrangements that promote efficient health care such as wellness program incentives and consumer-directed coverage arrangements such as FSAs, HRAs, and HSAs. The statute is being interpreted under guidance issued by the Treasury Department and the Internal Revenue Service (IRS) to require the contributions made by individuals into their HSAs and FSAs to be deemed as if they were provided by the employer for purposes of calculating the tax. As a result, employers are curtailing or eliminating employee contributions to FSA and HSA to

avoid triggering the Cadillac Tax. This trend is alarming. Congress should take steps to stop the impact of the Cadillac Tax on consumer-directed health plans.

We are appreciative of efforts in Congress to repeal the Cadillac Tax. The extension of the continuing resolution enacted on January 22, 2018 delays the effective date of the tax by two years until 2022. While the members of ECFC appreciate further delay of the excise tax (there was an earlier two-year delay of the excise tax was previously enacted), the repeal of this excise tax is an important priority of ECFC's members. If full repeal of the excise tax is not feasible, we would advocate that employee

contributions to FSAs and HSAs be exempted from the calculation of the Cadillac Tax or any direct limitation that may be proposed on employer-provided coverage. While delay of the effective date of the Cadillac Tax is helpful in the short run, delay will only slow the trend of employers eliminating or curtailing employee contributions to FSAs and HSAs; only complete repeal of the Cadillac Tax or the exemption of employee contributions from the calculation of the tax will stop this trend. If Congress wants to promote consumer-directed health plans, then it must address the deleterious effects of the Cadillac Tax on employers that sponsor these plans.

ECFC appreciates the opportunity to provide its perspective how Congress could support consumer-directed health plans by enacting further legislation. If you have any questions regarding our recommendations or would like further information, please contact our Executive Director, Martin Trussell (202.350.1788 or mtrussell@ecfc.org) or our Legislative and Technical Director, Bill Sweetnam (202.465.6397 or wsweetnam@ecfc.org).

