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September 23, 2009

The Honorable Max Baucus
U.S. Senate Committee on Finance
Washington, DC 20510

Dear Chairman Baucus:

We respectfully request that you amend the Chairman's Mark of the America's Healthy Futures Act to preserve the ability of millions of American families to use funds from their flexible spending arrangements (FSAs) and other tax-preferred accounts to purchase over-the counter (OTC) medicines. Title VI of the Chairman's Mark would limit the ability of consumers to use FSAs to purchase OTCs by requiring a prescription in order to use FSA monies to purchase OTCs. This requirement is inconsistent with the laudable goal of achieving accessible, cost-effective healthcare reform.

OTC medicines provide Americans with effective, affordable, convenient and accessible means to address their health care needs. OTC medicines save consumers billions of dollars annually through fewer unnecessary doctors' visits, less time lost from work, and the cost advantage OTC medicines generally carry in comparison to prescription drugs. They are important medicines for disease prevention, treatment, and symptomatic relief.

Requiring a prescription from a doctor for OTC medicine use would effectively eliminate the cost-efficiencies associated with these medicines. The proposal would add needless cost and complexity for consumers and the health care system by prompting employees to make additional visits to their doctors. This approach is directly contrary to the bill's overarching objective and many other provisions designed to promote more cost-effective health care.

In addition, requiring documentation from a doctor also greatly complicates the electronic debit card system that currently processes FSA-eligible products very efficiently. Many FSA account holders use a debit card to transmit information on eligible health care purchases to the plan administrator. One of the benefits of debit card transactions is that it seamlessly integrates eligible OTC products with point-of-sale retail systems without the need for additional documentation. Requiring additional documentation, at substantially increased cost to the consumer, also would subject the system to human error or even potentially fraudulent transactions.

Finally, it is unworkable to set an artificial standard under which certain OTC products would be considered eligible for reimbursement. Establishing such a standard for OTC products without looking at the broad range of FSA-eligible expenses in other categories unnecessarily singles

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out cost-effective medications while potentially leaving less “medically necessary” medications, procedures, and devices eligible for reimbursement.

We stand ready to work with you to strengthen our nation’s health care system and would be pleased to discuss these issues further.

Thank you.

A handwritten signature in black ink that reads "Linda A. Suydam". The signature is written in a cursive, flowing style.

Linda A. Suydam
President