

Forbes

Five Things A New Health Savings Account Proposal Would Not Do

John C. Goodman

June 3, 2016

Introduced by Sen. Jeff Flake (R-AZ) and Rep. Dave Brat (R-VA), the Health Savings Account Expansion Act liberalizes and expands HSAs in a way that is consistent with changes I have long advocated and that are explained in "[Designing Ideal Health Insurance](#)." It is a good piece of legislation which does many good things.

Among other commendable changes, the legislation would allow individual self-insurance to be combined with third party insurance in creative ways and this will be especially important to the chronically ill who are willing to manage more of their own care.

However, Cato Institute scholar [Michael Cannon](#) is making claims about the proposal that go far beyond what is actually there. Although I have not read the bill, I have looked at what the sponsors have said about it and they and Cannon seem to be worlds apart.

1. **The legislation is not based on Michael Cannon's proposal for "Big HSAs."** Cannon has proposed forcing employers to cash out their employee health insurance plans, to put the amounts in employee HSAs and to allow the employees to make their own choices in the medical marketplace. Neither sponsor is claiming anything remotely similar to this.
2. **The legislation would not free workers from employer-sponsored insurance.** So far as I can tell, the legislation does not even allow employers to cash out their health insurance plans and put the money in employee HSAs. That would mean you could have HSAs that are not tied to creditable health insurance. That would be a huge change from current law. If that is what the sponsors intend, you would think they would say so at their web They don't.

Under the proposal, employees would be able to pay premiums with their HSA funds, just as they currently can pay premiums from Health Reimbursement Arrangements (HRAs). However, an Obama administration regulation explicitly forbids employers from funding HRAs that are used to buy individually owned health insurance and this restriction would no doubt apply to HSAs as well. Unless the Health Savings Account Expansion Act explicitly overturns this Obama administration regulation (and if it does, you would expect the sponsors to say so), employees will not be able to use employer money to buy insurance in the individual market.

3. **The legislation is not “a bigger tax cut than you’ve ever seen.”** In fact, it is not a tax cut at all. It would allow employers and their employees to spend less money on third party health insurance and put funds instead into HSA accounts. I would be surprised if the CBO predicts much budget impact at all for the proposal – at least initially. Over time, there would probably be an increase in tax revenues as plans that rely more heavily on HSAs more successfully control costs and as the savings are converted into taxable take-home pay.
4. **The legislation would not “encourage innovative products like pre-existing conditions insurance.”** Under Obamacare the individual insurance market is tightly regulated and the method of risk adjust is prescribed by law. There is no ability to introduce new insurance products into that market, including what I call “health status risk adjustment.” As much as Cannon and I both like the idea, I am confident it is not in the legislation.
5. **The legislation does not “level the playing field between employer-sponsored coverage and other coverage.”** Today, employer contributions to insurance premiums are paid with pre-tax dollars, whereas individuals who purchase their own coverage must generally pay with after-tax dollars. Nothing in the legislation changes this fact. People who get insurance in the exchanges may qualify for (sometimes generous) tax subsidies. But these subsidies are very different from the subsidies that people get at work and nothing in the Flake-Brat legislation would change that.