Repeal of Restrictions on Flexible Spending Accounts (FSAs)

**Legislative Ask:** AAOMS requests House members to co-sponsor H.R. 605 and Senate members to co-sponsor S. 312, the Patients' Freedom to Choose Act. In addition, AAOMS is seeking co-sponsors for the Medical Flexible Spending Account Improvement Act of 2011, H.R. 1004 in the House and S. 1404 in the Senate.

**Legislative Background:** H.R. 605 was introduced by Congressman Erik Paulsen (R-MN) on February 10, 2011. This bill currently has 127 co-sponsors. S. 312 was introduced by Senator Kay Bailey Hutchison (R-TX) on February 10, 2011. This bill currently has 14 co-sponsors. H.R. 1004 was introduced by Congressman Charles Boustany (R-LA) on March 14, 2011. The bill currently has 29 co-sponsors. S. 1404 was introduced by Senator Ben Cardin (D-MD) on July 21, 2011. The bill currently has 1 co-sponsor.

**Goals of the Legislation:**

- **The Patients' Freedom to Choose Act** would repeal the restrictions that the Affordable Care Act (ACA) put on Flexible Spending Accounts by removing the prohibition on using FSA dollars for over-the-counter medications and striking the $2,500 annual cap.
- **The Medical Flexible Spending Account Improvement Act** would eliminate the so-called “use-it-or-lose-it” rule that requires consumers to use all their FSA dollars in a calendar year or forfeit the unused funds.

**The Impact:** In the current health care environment, hundreds of thousands of Americans – many of whom have middle-class incomes and are without access to dental insurance – rely on medical FSAs to cover rising out-of-pocket healthcare costs.

FSAs are particularly important for patients with a chronic illness, who often see multiple healthcare providers and take several medications to maintain their health and avoid costly complications. Similarly, many dental procedures, such as dental implants, which are provided by oral and maxillofacial surgeons and have a better long-term success rate when compared to other less costly teeth replacement treatments, can exceed the $2,500 annual contribution maximum set by the Affordable Care Act (ACA).

AAOMS believes that existing FSA restrictions are a step backward for consumers at a time when costs for health care have never been higher. Out-of-pocket medical costs can easily exceed the $2,500 annual cap when you factor in the rising costs of deductibles, co-pays and prescription medication(s). This restriction forces some patients to forgo necessary dental care. For these reasons, AAOMS believes stringent limits on FSA contributions pose a serious barrier to needed health care.