Every study has shown that Health Savings Accounts (HSAs) and Health Reimbursement Arrangements (HRAs) are effective ways of controlling health care costs. Since nothing else seems to work and since cost control was the Obama Administration's main criteria for accepting the bill Congress offered up, you would think the Administration would explore ways to expand the adoption of consumer driven health care (CDHC) plans. There are huge opportunities, for example, in applying the concept to chronic illness. Currently, nearly one-in-ten workers has a CDHC plan. Because these workers are in a position to choose between health care and other uses of money, they are holding down costs and probably doing so in a way that increases access and raises the quality of care at the same time.

The new health care law does not excessively limit the use of HSAs, but it does place new limits on how people can spend their HSA dollars and increases penalties for non-government approved purchases. In addition, it opens the door to death by regulation. Each year the Secretary of Health and Human Services will decide what benefits must be included in all plans and which ones count as primary care (requiring no patient cost-sharing). With the stroke of a pen, the Secretary could make the mandated health insurance plan inconsistent with the requirements of the HSA law, thus effectively outlawing any new contributions to HSAs.

Another important factor is whether employer contributions to HSAs are counted as part of their contribution to the employee health plan. For instance, if employers are not allowed to count HSAs contributions as an offset against cost-sharing limits, they will have no incentive to offer HSAs to their workers.