

110TH CONGRESS  
2D SESSION

# H. R. 7166

To improve access to health care and health insurance.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2008

Mr. SALI introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To improve access to health care and health insurance.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “American Health Care Access Improvement, Portability,  
6 and Cost Reduction Act of 2008”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Nonrefundable credit for certain primary health services providers serving health professional shortage areas.

Sec. 3. Increase in Medicare physician payments through 2010.

- Sec. 4. Refundable credit for health insurance coverage.
- Sec. 5. Health reimbursement arrangements and spending arrangements in combination with health savings accounts.
- Sec. 6. Increase in annual HSA contribution limitation.
- Sec. 7. Purchase of health insurance from HSA account.
- Sec. 8. Special rule for certain medical expenses incurred before establishment of account.
- Sec. 9. Provisions relating to Medicare.
- Sec. 10. Individuals eligible for veterans benefits for a service-connected disability.
- Sec. 11. Allow both spouses to make catch-up contributions to the same HSA account.
- Sec. 12. FSA and HRA Termination to fund HSAs.
- Sec. 13. Including information on advance directives in Medicare & You Handbook.
- Sec. 14. Restoring access requirements for certain MA private fee-for-service plan provisions as in existence before Public Law 110–275.

1 **SEC. 2. NONREFUNDABLE CREDIT FOR CERTAIN PRIMARY**  
 2 **HEALTH SERVICES PROVIDERS SERVING**  
 3 **HEALTH PROFESSIONAL SHORTAGE AREAS.**

4 (a) IN GENERAL.—Subpart A of part IV of sub-  
 5 chapter A of chapter 1 of the Internal Revenue Code of  
 6 1986 (relating to nonrefundable personal credits) is  
 7 amended by inserting after section 25D the following new  
 8 section:

9 **“SEC. 25E. PRIMARY CARE PHYSICIANS PROVIDERS SERV-**  
 10 **ING HEALTH PROFESSIONAL SHORTAGE**  
 11 **AREAS.**

12 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
 13 dividual who is a qualified primary care physician or quali-  
 14 fied nurse practitioner for any month during the taxable  
 15 year, there shall be allowed as a credit against the tax  
 16 imposed by this chapter for such taxable year an amount

1 equal to \$1,000 for each month during such taxable  
2 year—

3 “(1) which is part of the eligible service period  
4 of such individual, and

5 “(2) for which such individual is a qualified pri-  
6 mary care physician or qualified nurse practitioner,  
7 respectively.

8 “(b) QUALIFIED PRIMARY CARE PHYSICIAN.—For  
9 purposes of this section, the term ‘qualified primary care  
10 physician’ means, with respect to any month, any physi-  
11 cian who is certified for such month by the Bureau to be  
12 a primary health services provider or a licensed mental  
13 health provider who—

14 “(1) is providing primary health services full  
15 time and substantially all of whose primary health  
16 services are provided in a health professional short-  
17 age area,

18 “(2) is not receiving during the calendar year  
19 which includes such month a scholarship under the  
20 National Health Service Corps Scholarship Program  
21 or the Indian health professions scholarship program  
22 or a loan repayment under the National Health  
23 Service Corps Loan Repayment Program or the In-  
24 dian Health Service Loan Repayment Program,

1           “(3) is not fulfilling service obligations under  
2 such Programs, and

3           “(4) has not defaulted on such obligations.

4           “(c) ELIGIBLE SERVICE PERIOD.—For purposes of  
5 this section, the term ‘eligible service period’ means the  
6 period of 60 consecutive calendar months beginning with  
7 the first month the taxpayer is a qualified primary care  
8 physician or qualified nurse practitioner.

9           “(d) OTHER DEFINITIONS AND SPECIAL RULE.—For  
10 purposes of this section—

11           “(1) BUREAU.—The term ‘Bureau’ means the  
12 Bureau of Primary Health Care, Health Resources  
13 and Services Administration of the United States  
14 Department of Health and Human Services.

15           “(2) PHYSICIAN.—The term ‘physician’ has the  
16 meaning given to such term by section 1861(r) of  
17 the Social Security Act.

18           “(3) PRIMARY HEALTH SERVICES PROVIDER.—  
19 The term ‘primary health services provider’ means a  
20 provider of basic health services (as described in sec-  
21 tion 330(b)(1)(A)(i) of the Public Health Service  
22 Act).

23           “(4) QUALIFIED NURSE PRACTITIONER.—The  
24 term ‘qualified nurse practitioner’ means a nurse  
25 practitioner (as defined in section 1861(aa)(5) of the

1 Social Security Act) who is providing primary health  
2 services full time and substantially all of whose pri-  
3 mary health services are provided in a health profes-  
4 sional shortage area.

5 “(5) HEALTH PROFESSIONAL SHORTAGE  
6 AREA.—The term ‘health professional shortage area’  
7 means any area which, as of the beginning of the eli-  
8 gible service period, is a health professional shortage  
9 area (as defined in section 332(a)(1) of the Public  
10 Health Service Act) taking into account only the cat-  
11 egory of health services provided by the qualified pri-  
12 mary care physician or qualified nurse practitioner,  
13 as applicable.

14 “(6) ONLY 60 MONTHS TAKEN INTO AC-  
15 COUNT.—In no event shall more than 60 months be  
16 taken into account under subsection (a) by any indi-  
17 vidual for all taxable years.”

18 (b) CLERICAL AMENDMENT.—The table of sections  
19 for subpart A of part IV of subchapter A of chapter 1  
20 of the Internal Revenue Code of 1986 is amended by in-  
21 serting after the item relating to section 25D the following  
22 new item:

“25E. Primary care physicians serving health professional shortage areas.”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 2007.

1 **SEC. 3. INCREASE IN MEDICARE PHYSICIAN PAYMENTS**  
2 **THROUGH 2010.**

3 Section 1848(d)(9) of the Social Security Act (42  
4 U.S.C. 1395w-4(d)(9)), as added by section 131(a)(1)(B)  
5 of the Medicare Improvements for Patients and Providers  
6 Act of 2008 (Public Law 110-275), is amended—

7 (1) in subparagraph (A), by striking “for  
8 2009” and inserting “for each of 2009 and 2010”;  
9 and

10 (2) in subparagraph (B), by striking “2010”  
11 and inserting “2011”.

12 **SEC. 4. REFUNDABLE CREDIT FOR HEALTH INSURANCE**  
13 **COVERAGE.**

14 (a) IN GENERAL.—Subpart C of part IV of sub-  
15 chapter A of chapter 1 of the Internal Revenue Code of  
16 1986 (relating to refundable credits) is amended by redес-  
17 ignating section 37 as section 38 and by inserting after  
18 section 36 the following new section:

19 **“SEC. 37. QUALIFIED HEALTH INSURANCE CREDIT.**

20 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
21 dividual, there shall be allowed as a credit against the tax  
22 imposed by this chapter for the taxable year the sum of  
23 the monthly limitations determined under subsection (b)  
24 for the taxpayer and the taxpayers spouse and dependents.

25 “(b) MONTHLY LIMITATION.—

1           “(1) IN GENERAL.—The monthly limitation for  
2 each month during the taxable year for an eligible  
3 individual is  $\frac{1}{12}$ th of—

4           “(A) the applicable adult amount, in the  
5 case that the eligible individual is the taxpayer  
6 or the taxpayer’s spouse,

7           “(B) the applicable adult amount, in the  
8 case that the eligible individual is an adult de-  
9 pendent, and

10           “(C) the applicable child amount, in the  
11 case that the eligible individual is a child de-  
12 pendent.

13           “(2) LIMITATION ON AGGREGATE AMOUNT.—  
14 Notwithstanding paragraph (1), the aggregate  
15 monthly limitations for the taxpayer and the tax-  
16 payer’s spouse and dependents for any month shall  
17 not exceed  $\frac{1}{12}$ th of the applicable aggregate amount.

18           “(3) NO CREDIT FOR INELIGIBLE MONTHS.—  
19 With respect to any individual, the monthly limita-  
20 tion shall be zero for any month for which such indi-  
21 vidual is not an eligible individual.

22           “(c) APPLICABLE AMOUNTS.—For purposes of this  
23 section—

24           “(1) APPLICABLE ADULT AMOUNT.—The term  
25 ‘applicable adult amount’ means \$2,500.

1           “(2) APPLICABLE CHILD AMOUNT.—The term  
2           ‘applicable child amount’ means \$1,000.

3           “(3) APPLICABLE AGGREGATE AMOUNT.—The  
4           term ‘applicable aggregate amount’ means \$5,000.

5           “(d) ELIGIBLE INDIVIDUAL.—For purposes of this  
6           section—

7           “(1) IN GENERAL.—The term ‘eligible indi-  
8           vidual’ means, with respect to any month, an indi-  
9           vidual who—

10                   “(A) is the taxpayer, the taxpayer’s  
11                   spouse, or the taxpayer’s dependent, and

12                   “(B) is covered under qualified health in-  
13                   surance as of the 1st day of such month.

14           “(2) COVERAGE UNDER MEDICARE, MEDICAID,  
15           SCHIP, MILITARY COVERAGE.—The term ‘eligible in-  
16           dividual’ shall not include any individual for a month  
17           if, as of the first day of such month, such individual  
18           is—

19                   “(A) entitled to benefits under part A of  
20                   title XVIII of the Social Security Act or en-  
21                   rolled under part B of such title, and the indi-  
22                   vidual is not a participant or beneficiary in a  
23                   group health plan or large group health plan  
24                   that is a primary plan (as defined in section  
25                   1862(b)(2)(A) of such Act),

1           “(B) in the case of a State that has not  
2           made the election described in section  
3           1939(a)(1)(B) of the Social Security Act, en-  
4           rolled in the program under title XIX of such  
5           Act (other than under section 1928 of such  
6           Act), or

7           “(C) entitled to benefits under chapter 55  
8           of title 10, United States Code.

9           “(3) IDENTIFICATION REQUIREMENTS.—The  
10          term ‘eligible individual’ shall not include any indi-  
11          vidual for any month unless the policy number asso-  
12          ciated with the qualified refund eligible health insur-  
13          ance and the TIN of each eligible individual covered  
14          under such health insurance for such month are in-  
15          cluded on the return of tax for the taxable year in  
16          which such month occurs.

17          “(4) PRISONERS.—The term ‘eligible individual’  
18          shall not include any individual for a month if, as  
19          of the first day of such month, such individual is im-  
20          prisoned under Federal, State, or local authority.

21          “(5) ALIENS.—The term ‘eligible individual’  
22          shall not include any alien individual for a month if,  
23          as of the first day of such month, such individual is  
24          not a lawful permanent resident of the United  
25          States.

1       “(e) QUALIFIED HEALTH INSURANCE.—For pur-  
2 poses of this section—

3           “(1) IN GENERAL.—The term ‘qualified health  
4 insurance’ means any insurance constituting medical  
5 care which (as determined under regulations pre-  
6 scribed by the Secretary) provides coverage for inpa-  
7 tient and outpatient care, emergency benefits, and  
8 physician care.

9           “(2) CERTAIN COVERAGE DISREGARDED.—Such  
10 term does not include any insurance—

11           “(A) substantially all of the coverage of  
12 which is coverage described in section  
13 223(c)(1)(B), or

14           “(B) which constitutes medical care under  
15 any health plan maintained by any employer (or  
16 former employer) of the taxpayer or the tax-  
17 payer’s spouse.

18       “(f) OTHER DEFINITIONS.—For purposes of this sec-  
19 tion—

20           “(1) DEPENDENT.—The term ‘dependent’ has  
21 the meaning given such term by section 152 (deter-  
22 mined without regard to subsections (b)(1), (b)(2),  
23 and (d)(1)(B) thereof). An individual who is a child  
24 to whom section 152(e) applies shall be treated as  
25 a dependent of the custodial parent for a coverage

1 month unless the custodial and noncustodial parent  
2 agree otherwise.

3 “(2) ADULT.—The term ‘adult’ means an indi-  
4 vidual who is not a child.

5 “(3) CHILD.—The term ‘child’ means a quali-  
6 fying child (as defined in section 152(c)).

7 “(g) SPECIAL RULES.—

8 “(1) COORDINATION WITH MEDICAL DEDUC-  
9 TION, ETC.—Any amount paid by a taxpayer for in-  
10 surance to which subsection (a) applies shall not be  
11 taken into account in computing the amount allow-  
12 able to the taxpayer as a credit under section 35 or  
13 as a deduction under section 213(a).

14 “(2) MEDICAL AND HEALTH SAVINGS AC-  
15 COUNTS.—The credit allowed under subsection (a)  
16 for any taxable year shall be reduced by the aggre-  
17 gate amount distributed from Archer MSAs (as de-  
18 fined in section 220(d)) and health savings accounts  
19 (as defined in section 223(d)) which are excludable  
20 from gross income for such taxable years by reason  
21 of being used to pay premiums for coverage of an  
22 eligible individual (as defined in subsection (e))  
23 under qualified health insurance (as defined in sub-  
24 section (f)) for any month.

1           “(3) DENIAL OF CREDIT TO DEPENDENTS.—No  
2 credit shall be allowed under this section to any indi-  
3 vidual with respect to whom a deduction under sec-  
4 tion 151 is allowable to another taxpayer for a tax-  
5 able year beginning in the calendar year in which  
6 such individuals taxable year begins.

7           “(4) MARRIED COUPLES MUST FILE JOINT RE-  
8 TURN.—

9           “(A) IN GENERAL.—If the taxpayer is  
10 married at the close of the taxable year, the  
11 credit shall be allowed under subsection (a) only  
12 if the taxpayer and his spouse file a joint return  
13 for the taxable year.

14           “(B) MARITAL STATUS; CERTAIN MARRIED  
15 INDIVIDUALS LIVING APART.—Rules similar to  
16 the rules of paragraphs (3) and (4) of section  
17 21(e) shall apply for purposes of this para-  
18 graph.

19           “(5) VERIFICATION OF COVERAGE, ETC.—No  
20 credit shall be allowed under this section with re-  
21 spect to any individual unless such individual’s cov-  
22 erage (and such related information as the Secretary  
23 may require) is verified in such manner as the Sec-  
24 retary may prescribe.

1           “(6) INSURANCE WHICH COVERS OTHER INDI-  
2           VIDUALS; TREATMENT OF PAYMENTS.—Rules similar  
3           to the rules of paragraphs (7) and (8) of section  
4           35(g) shall apply for purposes of this section.

5           “(h) COORDINATION WITH ADVANCE PAYMENTS.—

6           “(1) REDUCTION IN CREDIT FOR ADVANCE PAY-  
7           MENTS.—With respect to any taxable year, the  
8           amount which would (but for this subsection) be al-  
9           lowed as a credit to the taxpayer under subsection  
10          (a) shall be reduced (but not below zero) by the ag-  
11          gregate amount paid on behalf of such taxpayer  
12          under section 7527A for months beginning in such  
13          taxable year.

14          “(2) RECAPTURE OF EXCESS ADVANCE PAY-  
15          MENTS.—If the aggregate amount paid on behalf of  
16          the taxpayer under section 7527A for months begin-  
17          ning in the taxable year exceeds the sum of the  
18          monthly limitations determined under subsection (b)  
19          for the taxpayer and the taxpayer’s spouse and de-  
20          pendents for such months, then the tax imposed by  
21          this chapter for such taxable year shall be increased  
22          by the sum of—

23                  “(A) such excess, plus

24                  “(B) interest on such excess determined at  
25                  the underpayment rate established under sec-

1           tion 6621 for the period from the date of the  
2           payment under section 7527A to the date such  
3           excess is paid.

4           For purposes of subparagraph (B), an equal part of  
5           the aggregate amount of the excess shall be deemed  
6           to be attributable to payments made under section  
7           7527A on the first day of each month beginning in  
8           such taxable year, unless the taxpayer establishes  
9           the date on which each such payment giving rise to  
10          such excess occurred, in which case subparagraph  
11          (B) shall be applied with respect to each date so es-  
12          tablished.

13          “(i) ANNUAL INFLATION ADJUSTMENT.—In the case  
14          of any taxable year beginning in a calendar year after  
15          2009, each of the dollar amounts contained in subsection  
16          (c) shall be annually increased by the annual inflation ad-  
17          justment determined under subparagraph (B) section  
18          1809(c)(2) of the Social Security Act for such calendar  
19          year. Any adjustment under the preceding sentence shall  
20          be rounded in the manner described in subparagraph (A)  
21          of such section.”.

22          (b) ADVANCE PAYMENT OF CREDIT.—Chapter 77  
23          (relating to miscellaneous provisions) of such Code is  
24          amended by inserting after section 7527 the following new  
25          section:

1 **“SEC. 7527A. ADVANCE PAYMENT OF QUALIFIED HEALTH**  
2 **INSURANCE CREDIT.**

3 “(a) IN GENERAL.—The Secretary shall establish a  
4 program for making payments on behalf of individuals to  
5 providers of qualified health insurance (as defined in sec-  
6 tion 37(e)) for such individuals.

7 “(b) LIMITATION.—The Secretary may make pay-  
8 ments under subsection (a) only to the extent that the Sec-  
9 retary determines that the amount of such payments made  
10 on behalf of any taxpayer for any month does not exceed  
11 the sum of the monthly limitations determined under sec-  
12 tion 37 for the taxpayer and taxpayer’s spouse and de-  
13 pendents for such month.”.

14 (c) INFORMATION REPORTING.—

15 (1) IN GENERAL.—Subpart B of part III of  
16 subchapter A of chapter 61 of such Code (relating  
17 to information concerning transactions with other  
18 persons) is amended by inserting after section  
19 6050V the following new section:

20 **“SEC. 6050W. RETURNS RELATING TO QUALIFIED HEALTH**  
21 **INSURANCE CREDIT.**

22 “(a) REQUIREMENT OF REPORTING.—Every person  
23 who is entitled to receive payments for any month of any  
24 calendar year under section 7527A (relating to advance  
25 payment of qualified health insurance credit) with respect  
26 to any individual shall, at such time as the Secretary may

1 prescribe, make the return described in subsection (b) with  
2 respect to each such individual.

3 “(b) FORM AND MANNER OF RETURNS.—A return  
4 is described in this subsection if such return—

5 “(1) is in such form as the Secretary may pre-  
6 scribe, and

7 “(2) contains, with respect to each individual  
8 referred to in subsection (a)—

9 “(A) the name, address, and TIN of each  
10 such individual,

11 “(B) the months for which amounts pay-  
12 ments under section 7527A were received,

13 “(C) the amount of each such payment,

14 “(D) the type of insurance coverage pro-  
15 vide by such person with respect to such indi-  
16 vidual and the policy number associated with  
17 such coverage,

18 “(E) the name, address, and TIN of the  
19 spouse and each dependent covered under such  
20 coverage, and

21 “(F) such other information as the Sec-  
22 retary may prescribe.

23 “(c) STATEMENTS TO BE FURNISHED TO INDIVID-  
24 UALS WITH RESPECT TO WHOM INFORMATION IS RE-  
25 QUIRED.—Every person required to make a return under

1 subsection (a) shall furnish to each individual whose name  
2 is required to be set forth in such return a written state-  
3 ment showing—

4 “(1) the name and address of the person re-  
5 quired to make such return and the phone number  
6 of the information contact for such person, and

7 “(2) the information required to be shown on  
8 the return with respect to such individual.

9 The written statement required under the preceding sen-  
10 tence shall be furnished on or before January 31 of the  
11 year following the calendar year for which the return  
12 under subsection (a) is required to be made.

13 “(d) RETURNS WHICH WOULD BE REQUIRED TO BE  
14 MADE BY 2 OR MORE PERSONS.—Except to the extent  
15 provided in regulations prescribed by the Secretary, in the  
16 case of any amount received by any person on behalf of  
17 another person, only the person first receiving such  
18 amount shall be required to make the return under sub-  
19 section (a).”.

20 (2) ASSESSABLE PENALTIES.—

21 (A) Subparagraph (B) of section  
22 6724(d)(1) (relating to definitions) of such  
23 Code is amended by redesignating clauses (xv)  
24 through (xxi) as clauses (xvi) through (xxii), re-

1           spectively, and by inserting after clause (xiv)  
2           the following new clause:

3                   “(xv) section 6050W (relating to re-  
4                   turns relating to qualified health insurance  
5                   credit),”.

6           (B) Paragraph (2) of section 6724(d) of  
7           such Code is amended by striking the period at  
8           the end of subparagraph (CC) and inserting “,  
9           or” and by inserting after subparagraph (CC)  
10          the following new subparagraph:

11                   “(DD) section 6050W (relating to returns re-  
12          lating to qualified health insurance credit).”.

13          (d) CONFORMING AMENDMENTS.—

14                  (1) Paragraph (2) of section 1324(b) of title  
15          31, United States Code, is amended by inserting  
16          “37,” after “36,”.

17                  (2) The table of sections for subpart C of part  
18          IV of subchapter A of chapter 1 of the Internal Rev-  
19          enue Code of 1986 is amended by redesignating the  
20          item relating to section 37 as an item relating to  
21          section 38 and by inserting after the item relating  
22          to section 36 the following new item:

“Sec. 37. Qualified health insurance credit.”.

1           (3) The table of sections for chapter 77 of such  
2           Code is amended by inserting after the item relating  
3           to section 7527 the following new item:

“Sec. 7527A. Advance payment of qualified health insurance credit.”.

4           (4) The table of sections for subpart B of part  
5           III of subchapter A of chapter 61 of such Code is  
6           amended by adding at the end the following new  
7           item:

“Sec. 6050W. Returns relating to qualified health insurance credit.”.

8           (e) EFFECTIVE DATE.—The amendments made by  
9           this section shall apply to taxable years beginning after  
10          December 31, 2008.

11   **SEC. 5. HEALTH REIMBURSEMENT ARRANGEMENTS AND**  
12                           **SPENDING ARRANGEMENTS IN COMBINATION**  
13                           **WITH HEALTH SAVINGS ACCOUNTS.**

14          (a) IN GENERAL.—Subparagraph (B) of section  
15          223(c)(1) of the Internal Revenue Code of 1986 (relating  
16          to certain coverage disregarded) is amended by striking  
17          “and” at the end of clause (ii), by striking the period at  
18          the end of clause (iii) and inserting “, and”, and by insert-  
19          ing after clause (iii) the following new clause:

20                           “(iv) coverage under a flexible spend-  
21                           ing arrangement or a health reimburse-  
22                           ment arrangement, or both, which meets  
23                           the requirements of paragraph (6).”.

1 (b) COMBINATION HEALTH REIMBURSEMENT, SAV-  
2 INGS, AND SPENDING ARRANGEMENTS.—Subsection (c) of  
3 section 223 of such Code (relating to definitions and spe-  
4 cial rules) is amended by adding at the end the following  
5 new paragraph:

6 “(6) COMBINED LIMIT FOR CONTRIBUTIONS OR  
7 CREDITS TO HEALTH REIMBURSEMENT, ARRANGE-  
8 MENTS AND SPENDING ARRANGEMENTS.—

9 “(A) IN GENERAL.—In the case of cov-  
10 erage under a flexible spending arrangement or  
11 a health reimbursement arrangement, or both,  
12 such coverage meets the requirements of this  
13 paragraph if, with respect to an individual—

14 “(i) the sum of—

15 “(I) the amount allowable as a  
16 deduction under subsection (a),

17 “(II) the salary reduction  
18 amount elected by the individual and,  
19 if applicable, the employer contribu-  
20 tion or credit allocated to the indi-  
21 vidual for the taxable year under the  
22 flexible spending arrangement (as de-  
23 fined in section 106(c)(2)), plus

24 “(III) the amounts that the indi-  
25 vidual is permitted, under the terms

1 of the plan, to receive in reimburse-  
2 ments for the taxable year under the  
3 health reimbursement arrangement,  
4 does not exceed

5 “(ii) the sum of the annual deductible  
6 and the other annual out-of-pocket ex-  
7 penses (other than for premiums) required  
8 to be paid under the plan by the eligible  
9 individual for covered benefits.

10 “(B) EXCEPTIONS FOR DISREGARDED COV-  
11 ERAGE.—For purposes of subparagraph (A)—

12 “(i) CERTAIN FLEXIBLE SPENDING  
13 ARRANGEMENTS.—Any flexible spending  
14 arrangement salary reduction amounts or  
15 employer contributions or credits that are  
16 restricted by the employer to use for cov-  
17 erage described in paragraph (1)(B) shall  
18 not be taken into account under subpara-  
19 graph (A)(i)(II).

20 “(ii) CERTAIN HEALTH REIMBURSE-  
21 MENT ARRANGEMENTS.—Any reimburse-  
22 ments from a health reimbursement ar-  
23 rangement for coverage described in para-  
24 graph (1)(B) shall not be taken into ac-  
25 count under subparagraph (A)(i)(III).

1                   “(iii) QUALIFIED HSA DISTRIBUTIONS  
2                   FROM FSA AND HRA TERMINATIONS.—Any  
3                   qualified HSA distribution (as defined in  
4                   section 106(e)) shall not be taken into ac-  
5                   count under subparagraph (A)(i).

6                   “(C) TERMINATION.—Coverage shall not  
7                   be treated as meeting the requirements of this  
8                   paragraph for any taxable year beginning after  
9                   December 31, 2012.”.

10           (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 2007.

13 **SEC. 6. INCREASE IN ANNUAL HSA CONTRIBUTION LIMITA-**  
14 **TION.**

15           (a) IN GENERAL.—Paragraph (2) of section 223(b)  
16 of the Internal Revenue Code of 1986 (relating to monthly  
17 limitation) is amended—

18                   (1) in subparagraph (A) by striking “\$2,250”  
19                   and inserting “\$4,500”, and

20                   (2) in subparagraph (B) by striking “\$4,500”  
21                   and inserting “\$9,000”.

22           (b) COST-OF-LIVING ADJUSTMENT.—Section  
23 223(g)(1)(B)(i) of such Code is amended by striking “cal-  
24 endar year 1997” and inserting “calendar year 2008”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2007.

4 **SEC. 7. PURCHASE OF HEALTH INSURANCE FROM HSA AC-**  
5 **COUNT.**

6 (a) IN GENERAL.—Paragraph (2) of section 223(d)  
7 of the Internal Revenue Code of 1986 (defining qualified  
8 medical expenses) is amended—

9 (1) by striking subparagraphs (B) and (C),

10 (2) in subparagraph (A) by striking “(A) IN  
11 GENERAL.—” and moving the text 2 ems to the left,  
12 and

13 (3) by inserting “ and including payment for in-  
14 surance)” after “section 213(d)”.

15 (b) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply with respect to insurance pur-  
17 chased after the date of the enactment of this Act in tax-  
18 able years beginning after such date.

19 **SEC. 8. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**  
20 **INCURRED BEFORE ESTABLISHMENT OF AC-**  
21 **COUNT.**

22 (a) IN GENERAL.—Subsection (d) of section 223 of  
23 the Internal Revenue Code of 1986 is amended by redesign-  
24 ating paragraph (4) as paragraph (5) and by inserting  
25 after paragraph (3) the following new paragraph:

1           “(4) CERTAIN MEDICAL EXPENSES INCURRED  
2 BEFORE ESTABLISHMENT OF ACCOUNT TREATED AS  
3 QUALIFIED.—

4           “(A) IN GENERAL.—For purposes of para-  
5 graph (2), an expense shall not fail to be treat-  
6 ed as a qualified medical expense solely because  
7 such expense was incurred before the establish-  
8 ment of the health savings account if such ex-  
9 pense was incurred during the 60-day period  
10 beginning on the date on which the high de-  
11 ductible health plan is first effective.

12           “(B) SPECIAL RULES.—For purposes of  
13 subparagraph (A)—

14           “(i) an individual shall be treated as  
15 an eligible individual for any portion of a  
16 month for which the individual is described  
17 in subsection (c)(1), determined without  
18 regard to whether the individual is covered  
19 under a high deductible health plan on the  
20 1st day of such month, and

21           “(ii) the effective date of the health  
22 savings account is deemed to be the date  
23 on which the high deductible health plan is  
24 first effective after the date of the enact-  
25 ment of this paragraph.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply with respect to insurance pur-  
3 chased after the date of the enactment of this Act in tax-  
4 able years beginning after such date.

5 **SEC. 9. PROVISIONS RELATING TO MEDICARE.**

6 (a) INDIVIDUALS OVER AGE 65 ONLY ENROLLED IN  
7 MEDICARE PART A.—Section 223(b)(7) of the Internal  
8 Revenue Code of 1986 (relating to contribution limitation  
9 on Medicare eligible individuals) is amended by adding at  
10 the end the following new sentence: “This paragraph shall  
11 not apply to any individual during any period the individ-  
12 ual’s only entitlement to such benefits is an entitlement  
13 to hospital insurance benefits under part A of title XVIII  
14 of such Act pursuant to an enrollment for such hospital  
15 insurance benefits under section 226(a)(1) of such Act.”.

16 (b) MEDICARE BENEFICIARIES PARTICIPATING IN  
17 MEDICARE ADVANTAGE MSA MAY CONTRIBUTE THEIR  
18 OWN MONEY TO THEIR MSA.—Subsection (b) of section  
19 138 of such Code is amended by striking paragraph (2)  
20 and redesignating paragraphs (3) and (4) as paragraphs  
21 (2) and (3), respectively.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to taxable years beginning after  
24 the date of the enactment of this Act.

1 **SEC. 10. INDIVIDUALS ELIGIBLE FOR VETERANS BENEFITS**  
2 **FOR A SERVICE-CONNECTED DISABILITY.**

3 (a) IN GENERAL.—Section 223(c)(1) of the Internal  
4 Revenue Code of 1986 (defining eligible individual) is  
5 amended by adding at the end the following new subpara-  
6 graph:

7 “(D) SPECIAL RULE FOR INDIVIDUALS EL-  
8 IGIBLE FOR CERTAIN VETERANS BENEFITS.—  
9 For purposes of subparagraph (A)(ii), an indi-  
10 vidual shall not be treated as covered under a  
11 health plan described in such subparagraph  
12 merely because the individual receives periodic  
13 hospital care or medical services for a service-  
14 connected disability under any law administered  
15 by the Secretary of Veterans Affairs but only if  
16 the individual is not eligible to receive such care  
17 or services for any condition other than a serv-  
18 ice-connected disability.”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to taxable years beginning after  
21 the date of the enactment of this Act.

22 **SEC. 11. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**  
23 **TRIBUTIONS TO THE SAME HSA ACCOUNT.**

24 (a) IN GENERAL.—Paragraph (3) of section 223(b)  
25 of the Internal Revenue Code of 1986 is amended by add-  
26 ing at the end the following new subparagraph:

1           “(C) SPECIAL RULE WHERE BOTH  
2 SPOUSES ARE ELIGIBLE INDIVIDUALS WITH 1  
3 ACCOUNT.—If—

4           “(i) an individual and the individual’s  
5 spouse have both attained age 55 before  
6 the close of the taxable year, and

7           “(ii) the spouse is not an account ben-  
8 eficiary of a health savings account as of  
9 the close of such year,

10 the additional contribution amount shall be 200  
11 percent of the amount otherwise determined  
12 under subparagraph (B).”.

13       (b) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to taxable years beginning after  
15 the date of the enactment of this Act.

16 **SEC. 12. FSA AND HRA TERMINATION TO FUND HSAS.**

17       (a) GRACE PERIOD NOT REQUIRED.—Section  
18 106(e)(2) of the Internal Revenue Code of 1986 is amend-  
19 ed by adding at the end the following new sentence: “A  
20 distribution shall not fail to be treated as a qualified HSA  
21 distribution merely because the balance in such arrange-  
22 ment is determined without regard to the requirement that  
23 unused amounts remaining at the end of a plan year must  
24 be forfeited in the absence of a grace period.”.

1           (b) DEPOSIT IN LIMITED FSA OR HRA OF FUNDS  
2 IN EXCESS FSA OR HRA TERMINATION DISTRIBU-  
3 TION.—Paragraph (1) of section 106(e) of such Code is  
4 amended by inserting before the period at the end thereof  
5 the following: “and the deposit of funds in excess of a  
6 qualified HSA distribution amount into a health flexible  
7 spending account or health reimbursement arrangement  
8 which is compatible with a health savings account and  
9 which, on the date of such distribution, is a part of the  
10 employer’s plan”.

11           (c) DISCLAIMER OF DISQUALIFYING COVERAGE.—  
12 Subparagraph (B) of section 223(c)(1) of such Code is  
13 amended by striking “and” at the end of clause (ii), by  
14 striking the period at the end of clause (iii) and inserting  
15 “, and”, and by inserting after clause (iii) the following  
16 new clause:

17                                   “(iv) any coverage (whether actual or  
18                                   prospective) otherwise described in sub-  
19                                   paragraph (A)(ii) which is disclaimed at  
20                                   the time of the creation or organization of  
21                                   the health savings account.”.

22           (d) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to taxable years beginning after  
24 the date of the enactment of this Act.

1 **SEC. 13. INCLUDING INFORMATION ON ADVANCE DIREC-**  
 2 **TIVES IN MEDICARE & YOU HANDBOOK.**

3 (a) IN GENERAL.—Section 1804(a) of the Social Se-  
 4 curity Act (42 U.S.C. 1395b–2(a)) is amended—

5 (1) in paragraph (2), at the end by striking  
 6 “and”;

7 (2) in paragraph (3), at the end by striking the  
 8 period and inserting “; and”; and

9 (3) by inserting after paragraph (3), the fol-  
 10 lowing new paragraph:

11 “(4) educational information about advance di-  
 12 rectives (as defined in section 1866(f)(3)).”.

13 (b) EFFECTIVE DATE.—The amendments made by  
 14 subsection (a) shall apply to information distributed for  
 15 years beginning on or after the date of the enactment of  
 16 this Act.

17 **SEC. 14. RESTORING ACCESS REQUIREMENTS FOR CER-**  
 18 **TAIN MA PRIVATE FEE-FOR-SERVICE PLAN**  
 19 **PROVISIONS AS IN EXISTENCE BEFORE PUB-**  
 20 **LIC LAW 110-275.**

21 (a) IN GENERAL.—Section 1852(d) of the Social Se-  
 22 curity Act (42 U.S.C. 1395w–22(d)), as amended by sec-  
 23 tion 162(a) of the Medicare Improvements for Patients  
 24 and Providers Act of 2008 (Public Law 110–275), is  
 25 amended—

26 (1) in paragraph (4), in the second sentence—

1 (A) by striking “Subject to paragraphs (5)  
2 and (6), the Secretary” and inserting “The Sec-  
3 retary”; and

4 (B) in subparagraph (B), by striking “suf-  
5 ficient number and range of providers within  
6 such category to meet the access standards in  
7 subparagraphs (A) through (E) of paragraph  
8 (1)” and inserting “sufficient number and  
9 range of providers within such category to pro-  
10 vide covered services under the terms of the  
11 plan”; and

12 (2) by striking paragraphs (5) and (6).

13 (b) CLARIFICATION REGARDING UTILIZATION.—Sec-  
14 tion 1859(b)(2) of the Social Security Act (42 U.S.C.  
15 1395w–28(b)(2)), as amended by section 162(b) of the  
16 Medicare Improvements for Patients and Providers Act of  
17 2008 (Public Law 110–275), is amended by striking  
18 “Nothing in subparagraph (B)” through “specified pre-  
19 ventive or screening services.”.

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