

114TH CONGRESS
2D SESSION

S. 2499

To amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2016

Mr. HATCH (for himself, Mr. RUBIO, Mr. BARRASSO, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes.

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, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Health Savings Act of 2016”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents is
 4 as follows:

Sec. 1. Short title, etc.

TITLE I—RENAMING HIGH DEDUCTIBLE HEALTH PLANS

Sec. 101. High deductible health plans renamed HSA-qualified health plans.

TITLE II—ENHANCING ACCESS TO TAX-PREFERRED HEALTH ACCOUNTS

Sec. 201. Allow both spouses to make catch-up contributions to the same HSA account.

Sec. 202. Provisions relating to Medicare.

Sec. 203. Individuals eligible for Indian Health Service assistance.

Sec. 204. Individuals eligible for TRICARE coverage.

Sec. 205. Members of health care sharing ministries eligible to establish health savings accounts.

Sec. 206. Treatment of direct primary care service arrangements.

Sec. 207. Individuals eligible for on-site medical clinic coverage.

Sec. 208. Treatment of embedded deductibles.

TITLE III—IMPROVING COVERAGE UNDER TAX-PREFERRED HEALTH ACCOUNTS

Sec. 301. Allowance of distributions for prescription and over-the-counter medicines and drugs.

Sec. 302. Purchase of health insurance from HSA account.

Sec. 303. Special rule for certain medical expenses incurred before establishment of account.

Sec. 304. Preventive care prescription drug clarification.

TITLE IV—PROTECTING ACCESS TO LOW-COST HEALTH PLANS BY REDUCING BURDENSOME MANDATES

Sec. 401. HSA-qualified health plans qualify as providing minimum value.

TITLE V—MISCELLANEOUS PROVISIONS RELATING TO TAX-PREFERRED HEALTH ACCOUNTS

Sec. 501. FSA and HRA interaction with HSAs.

Sec. 502. Equivalent bankruptcy protections for health savings accounts as retirement funds.

Sec. 503. Administrative error correction before due date of return.

Sec. 504. Reauthorization of Medicaid health opportunity accounts.

Sec. 505. Exclusion of certain health arrangements from employer-sponsored excise tax.

TITLE VI—OTHER PROVISIONS

Sec. 601. Certain exercise equipment and physical fitness programs treated as medical care.

Sec. 602. Certain nutritional and dietary supplements to be treated as medical care.

Sec. 603. Certain provider fees to be treated as medical care.

1 **TITLE I—RENAMING HIGH**
 2 **DEDUCTIBLE HEALTH PLANS**

3 **SEC. 101. HIGH DEDUCTIBLE HEALTH PLANS RENAMED**
 4 **HSA-QUALIFIED HEALTH PLANS.**

5 (a) IN GENERAL.—Section 223 is amended by striking
 6 ing “high deductible health plan” each place it appears
 7 and inserting “HSA-qualified health plan”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) The heading for paragraph (2) of section
 10 223(c) is amended by striking “HIGH DEDUCTIBLE
 11 HEALTH PLAN” and inserting “HSA-QUALIFIED
 12 HEALTH PLAN”.

13 (2) Section 408(d)(9) is amended—

14 (A) by striking “high deductible health
 15 plan” each place it appears in subparagraph
 16 (C) and inserting “HSA-qualified health plan”,
 17 and

18 (B) by striking “HIGH DEDUCTIBLE
 19 HEALTH PLAN” in the heading of subparagraph
 20 (D) and inserting “HSA-QUALIFIED HEALTH
 21 PLAN”.

1 **TITLE II—ENHANCING ACCESS**
 2 **TO TAX-PREFERRED HEALTH**
 3 **ACCOUNTS**

4 **SEC. 201. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**
 5 **TRIBUTIONS TO THE SAME HSA ACCOUNT.**

6 (a) IN GENERAL.—Paragraph (5) of section 223(b)
 7 is amended to read as follows:

8 “(5) SPECIAL RULE FOR MARRIED INDIVIDUALS
 9 WITH FAMILY COVERAGE.—

10 “(A) IN GENERAL.—In the case of individ-
 11 uals who are married to each other, if both
 12 spouses are eligible individuals and either
 13 spouse has family coverage under an HSA-
 14 qualified health plan as of the first day of any
 15 month—

16 “(i) the limitation under paragraph
 17 (1) shall be applied by not taking into ac-
 18 count any other HSA-qualified health plan
 19 coverage of either spouse (and if such
 20 spouses both have family coverage under
 21 separate HSA-qualified health plans, only
 22 one such coverage shall be taken into ac-
 23 count),

24 “(ii) such limitation (after application
 25 of clause (i)) shall be reduced by the ag-

1 aggregate amount paid to Archer MSAs of
2 such spouses for the taxable year, and

3 “(iii) such limitation (after application
4 of clauses (i) and (ii)) shall be divided
5 equally between such spouses unless they
6 agree on a different division.

7 “(B) TREATMENT OF ADDITIONAL CON-
8 TRIBUTION AMOUNTS.—If both spouses referred
9 to in subparagraph (A) have attained age 55
10 before the close of the taxable year, the limita-
11 tion referred to in subparagraph (A)(iii) which
12 is subject to division between the spouses shall
13 include the additional contribution amounts de-
14 termined under paragraph (3) for both spouses.
15 In any other case, any additional contribution
16 amount determined under paragraph (3) shall
17 not be taken into account under subparagraph
18 (A)(iii) and shall not be subject to division be-
19 tween the spouses.”.

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

23 **SEC. 202. PROVISIONS RELATING TO MEDICARE.**

24 (a) INDIVIDUALS OVER AGE 65 ONLY ENROLLED IN
25 MEDICARE PART A.—Paragraph (7) of section 223(b) is

1 amended by adding at the end the following: “This para-
 2 graph shall not apply to any individual during any period
 3 for which the individual’s only entitlement to such benefits
 4 is an entitlement to hospital insurance benefits under part
 5 A of title XVIII of such Act pursuant to an enrollment
 6 for such hospital insurance benefits under section 226(a)
 7 of such Act.”.

8 (b) MEDICARE BENEFICIARIES PARTICIPATING IN
 9 MEDICARE ADVANTAGE MSA MAY CONTRIBUTE THEIR
 10 OWN MONEY TO THEIR MSA.—

11 (1) IN GENERAL.—Subsection (b) of section
 12 138 is amended by striking paragraph (2) and by re-
 13 designating paragraphs (3) and (4) as paragraphs
 14 (2) and (3), respectively.

15 (2) CONFORMING AMENDMENT.—Paragraph (4)
 16 of section 138(e) is amended by striking “and para-
 17 graph (2)”.

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

21 **SEC. 203. INDIVIDUALS ELIGIBLE FOR INDIAN HEALTH**
 22 **SERVICE ASSISTANCE.**

23 (a) IN GENERAL.—Paragraph (1) of section 223(c)
 24 is amended by adding at the end the following new sub-
 25 paragraph:

1 “(D) SPECIAL RULE FOR INDIVIDUALS EL-
2 IGIBLE FOR ASSISTANCE UNDER INDIAN
3 HEALTH SERVICE PROGRAMS.—For purposes of
4 subparagraph (A)(ii), an individual shall not be
5 treated as covered under a health plan de-
6 scribed in such subparagraph merely because
7 the individual receives hospital care or medical
8 services under a medical care program of the
9 Indian Health Service or of a tribal organiza-
10 tion.”.

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

14 **SEC. 204. INDIVIDUALS ELIGIBLE FOR TRICARE COVERAGE.**

15 (a) IN GENERAL.—Paragraph (1) of section 223(c),
16 as amended by section 203, is amended by adding at the
17 end the following new subparagraph:

18 “(E) SPECIAL RULE FOR INDIVIDUALS EL-
19 IGIBLE FOR ASSISTANCE UNDER TRICARE.—For
20 purposes of subparagraph (A)(ii), an individual
21 shall not be treated as covered under a health
22 plan described in such subparagraph merely be-
23 cause the individual is eligible to receive hos-
24 pital care, medical services, or prescription
25 drugs under TRICARE Extra or TRICARE

1 Standard and such individual is not enrolled in
2 TRICARE Prime.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to taxable years beginning after
5 the date of the enactment of this Act.

6 **SEC. 205. MEMBERS OF HEALTH CARE SHARING MIN-**
7 **ISTRIES ELIGIBLE TO ESTABLISH HEALTH**
8 **SAVINGS ACCOUNTS.**

9 (a) IN GENERAL.—Section 223 is amended by adding
10 at the end the following new subsection:

11 “(i) APPLICATION TO HEALTH CARE SHARING MIN-
12 ISTRIES.—For purposes of this section, membership in a
13 health care sharing ministry (as defined in section
14 5000A(d)(2)(B)(ii)) shall be treated as coverage under an
15 HSA-qualified health plan.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to taxable years beginning after
18 the date of the enactment of this Act.

19 **SEC. 206. TREATMENT OF DIRECT PRIMARY CARE SERVICE**
20 **ARRANGEMENTS.**

21 (a) IN GENERAL.—Section 223(c) is amended by
22 adding at the end the following new paragraph:

23 “(6) TREATMENT OF DIRECT PRIMARY CARE
24 SERVICE ARRANGEMENTS.—An arrangement under
25 which an individual is provided coverage restricted to

1 primary care services in exchange for a fixed peri-
 2 odic fee or payment for primary care services—

3 “(A) shall not be treated as a health plan
 4 for purposes of paragraph (1)(A)(ii), and

5 “(B) shall not be treated as insurance for
 6 purposes of subsection (d)(2)(B).”.

7 (b) EFFECTIVE DATE.—The amendment made by
 8 this section shall apply to taxable years beginning after
 9 the date of the enactment of this Act.

10 **SEC. 207. INDIVIDUALS ELIGIBLE FOR ON-SITE MEDICAL**
 11 **CLINIC COVERAGE.**

12 (a) IN GENERAL.—Paragraph (1) of section 223(e),
 13 as amended by sections 203 and 204, is amended by add-
 14 ing at the end the following new subparagraph:

15 “(F) SPECIAL RULE FOR INDIVIDUALS EL-
 16 IGIBLE FOR ON-SITE MEDICAL CLINIC COV-
 17 ERAGE.—

18 “(i) IN GENERAL.—For purposes of
 19 subparagraph (A)(ii), an individual shall
 20 not be treated as covered under a health
 21 plan described in such subparagraph mere-
 22 ly because the individual is eligible to re-
 23 ceive health care benefits from an onsite-
 24 medical clinic of employer of the individual

1 or the individual's spouse if such health
2 care benefits are not significant benefits.

3 “(ii) INCLUDED BENEFITS.—For pur-
4 poses of clause (i), the following health
5 care benefits shall be considered to be ben-
6 efits which are not significant benefits:

7 “(I) Physicals and immuniza-
8 tions.

9 “(II) Injecting antigens provided
10 by employees.

11 “(III) Medications available with-
12 out a prescription, such as pain reliev-
13 ers and antihistamines.

14 “(IV) Treatment for injuries oc-
15 ccurring at the employer's place of em-
16 ployment or otherwise in the course of
17 employment.

18 “(V) Tests for infectious diseases
19 and conditions, such as streptococcal
20 sore throat.

21 “(VI) Monitoring of chronic con-
22 ditions, such as diabetes.

23 “(VII) Drug testing.

24 “(VIII) Hearing or vision
25 screenings and related services.

1 “(IX) Other services and treat-
 2 ments of a similar nature to the serv-
 3 ices described in subclauses (I)
 4 through (VIII).

5 “(iii) AGGREGATION RULES.—For
 6 purposes of clause (i), all persons treated
 7 as a single employer under subsection (b),
 8 (c), (m), or (o) of section 414 shall be
 9 treated as a single employer.”.

10 (b) EFFECTIVE DATE.—The amendment made by
 11 this section shall apply to taxable years beginning after
 12 the date of the enactment of this Act.

13 **SEC. 208. TREATMENT OF EMBEDDED DEDUCTIBLES.**

14 (a) IN GENERAL.—Paragraph (2) of section 223(c)
 15 is amended by adding at the end the following new sub-
 16 paragraph:

17 “(E) TREATMENT OF EMBEDDED DEDUCT-
 18 IBLE.—A health plan providing family coverage
 19 that has an annual deductible for all covered in-
 20 dividuals under the plan of at least the amount
 21 described in subparagraph (A)(i)(II) shall not
 22 fail to be treated as an HSA-qualified health
 23 plan solely because it covers expenses with re-
 24 spect to an individual under that plan that ex-
 25 ceed an embedded deductible which is equal to

1 or in excess of the amount described in sub-
 2 paragraph (A)(i)(I).”.

3 (b) EFFECTIVE DATE.—The amendment made by
 4 this section shall apply to taxable years beginning after
 5 the date of the enactment of this Act.

6 **TITLE III—IMPROVING COV-**
 7 **ERAGE UNDER TAX-PRE-**
 8 **FERRED HEALTH ACCOUNTS**

9 **SEC. 301. ALLOWANCE OF DISTRIBUTIONS FOR PRESCRIP-**
 10 **TION AND OVER-THE-COUNTER MEDICINES**
 11 **AND DRUGS.**

12 (a) HSAs.—Section 223(d)(2)(A) is amended by
 13 striking the last sentence thereof and inserting the fol-
 14 lowing: “Such term shall include an amount paid for any
 15 prescription or over-the-counter medicine or drug.”.

16 (b) ARCHER MSAs.—Section 220(d)(2)(A) is amend-
 17 ed by striking the last sentence thereof and inserting the
 18 following: “Such term shall include an amount paid for
 19 any prescription or over-the-counter medicine or drug.”.

20 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
 21 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sub-
 22 section (f) of section 106 is amended to read as follows:

23 “(f) REIMBURSEMENTS FOR ALL MEDICINES AND
 24 DRUGS.—For purposes of this section and section 105,
 25 reimbursement for expenses incurred for any prescription

1 or over-the-counter medicine or drug shall be treated as
2 a reimbursement for medical expenses.”.

3 (d) EFFECTIVE DATES.—

4 (1) DISTRIBUTIONS FROM SAVINGS AC-
5 COUNTS.—The amendments made by subsections (a)
6 and (b) shall apply to amounts paid in taxable years
7 beginning after December 31, 2016.

8 (2) REIMBURSEMENTS.—The amendment made
9 by subsection (c) shall apply to expenses incurred in
10 plan years beginning after December 31, 2016.

11 **SEC. 302. PURCHASE OF HEALTH INSURANCE FROM HSA**
12 **ACCOUNT.**

13 (a) IN GENERAL.—Paragraph (2) of section 223(d),
14 as amended by section 301, is amended—

15 (1) by striking “and any dependent (as defined
16 in section 152, determined without regard to sub-
17 sections (b)(1), (b)(2), and (d)(1)(B) thereof) of
18 such individual” in subparagraph (A) and inserting
19 “any dependent (as defined in section 152, deter-
20 mined without regard to subsections (b)(1), (b)(2),
21 and (d)(1)(B) thereof) of such individual, and any
22 child (as defined in section 152(f)(1)) of such indi-
23 vidual who has not attained the age of 27 before the
24 end of such individual’s taxable year”,

1 (2) by striking subparagraph (B) and inserting
2 the following:

3 “(B) HEALTH INSURANCE MAY NOT BE
4 PURCHASED FROM ACCOUNT.—Except as pro-
5 vided in subparagraph (C), subparagraph (A)
6 shall not apply to any payment for insurance.”,
7 and

8 (3) by striking “or” at the end of subparagraph
9 (C)(iii) and by striking subparagraph (C)(iv) and in-
10 serting the following:

11 “(iv) an HSA-qualified health plan, or
12 “(v) any health insurance under title
13 XVIII of the Social Security Act, other
14 than a Medicare supplemental policy (as
15 defined in section 1882 of such Act).”.

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

20 **SEC. 303. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**
21 **INCURRED BEFORE ESTABLISHMENT OF AC-**
22 **COUNT.**

23 (a) IN GENERAL.—Paragraph (2) of section 223(d)
24 is amended by adding at the end the following new sub-
25 paragraph:

1 “(D) TREATMENT OF CERTAIN MEDICAL
2 EXPENSES INCURRED BEFORE ESTABLISHMENT
3 OF ACCOUNT.—If a health savings account is
4 established during the 60-day period beginning
5 on the date that coverage of the account bene-
6 ficiary under an HSA-qualified health plan be-
7 gins, then, solely for purposes of determining
8 whether an amount paid is used for a qualified
9 medical expense, such account shall be treated
10 as having been established on the date that
11 such coverage begins.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply with respect to coverage beginning
14 after the date of the enactment of this Act.

15 **SEC. 304. PREVENTIVE CARE PRESCRIPTION DRUG CLARI-**
16 **FICATION.**

17 (a) CLARIFY USE OF DRUGS IN PREVENTIVE
18 CARE.—Subparagraph (C) of section 223(c)(2) is amend-
19 ed by adding at the end the following: “Preventive care
20 shall include prescription and over-the-counter drugs and
21 medicines which have the primary purpose of preventing
22 the onset of, further deterioration from, or complications
23 associated with chronic conditions, illnesses, or diseases.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2016.

4 **TITLE IV—PROTECTING ACCESS**
 5 **TO LOW-COST HEALTH PLANS**
 6 **BY REDUCING BURDENSOME**
 7 **MANDATES**

8 **SEC. 401. HSA-QUALIFIED HEALTH PLANS QUALIFY AS PRO-**
 9 **VIDING MINIMUM VALUE.**

10 (a) IN GENERAL.—Clause (ii) of section
 11 36B(c)(2)(C) is amended by inserting “, in the case of
 12 a plan other than an HSA-qualified health plan,” after
 13 “an eligible employer-sponsored plan (as defined in section
 14 5000A(f)(2)) and”.

15 (b) EFFECTIVE DATE.—The amendment made by
 16 this section shall apply to months beginning after Decem-
 17 ber 31, 2016.

18 **TITLE V—MISCELLANEOUS PRO-**
 19 **VISIONS RELATING TO TAX-**
 20 **PREFERRED HEALTH AC-**
 21 **COUNTS**

22 **SEC. 501. FSA AND HRA INTERACTION WITH HSAS.**

23 (a) ELIGIBLE INDIVIDUALS INCLUDE FSA AND HRA
 24 PARTICIPANTS.—Subparagraph (B) of section 223(c)(1)
 25 is amended—

- 1 (1) by striking “and” at the end of clause (ii),
2 (2) by striking the period at the end of clause
3 (iii) and inserting “, and”, and
4 (3) by inserting after clause (iii) the following
5 new clause:

6 “(iv) coverage under a health flexible
7 spending arrangement or a health reim-
8 bursement arrangement in the plan year a
9 qualified HSA distribution as described in
10 section 106(e) is made on behalf of the in-
11 dividual if, after the qualified HSA dis-
12 tribution is made and for the remaining
13 duration of the plan year, the coverage
14 provided under the arrangement is con-
15 verted solely to one or more of the fol-
16 lowing:

17 “(I) POST-DEDUCTIBLE FSA OR
18 HRA.—A health flexible spending ar-
19 rangement or a health reimbursement
20 arrangement that does not pay or re-
21 imburse any medical expense incurred
22 before the minimum annual deductible
23 under paragraph (2)(A)(i) (prorated
24 for the period occurring after the

1 qualified HSA distribution is made) is
2 satisfied.

3 “(II) PREVENTATIVE CARE.—A
4 health flexible spending arrangement
5 or a health reimbursement arrange-
6 ment that, after the qualified HSA
7 distribution is made, does not pay or
8 reimburse any medical expense in-
9 curred after the qualified HSA dis-
10 tribution is made other than preven-
11 tive care as defined in paragraph
12 (2)(C).

13 “(III) LIMITED PURPOSE
14 HEALTH FSA.—A health flexible
15 spending arrangement that, after the
16 qualified HSA distribution is made,
17 pays or reimburses benefits for cov-
18 erage described in clause (ii) (but not
19 through insurance or for long-term
20 care services).

21 “(IV) LIMITED PURPOSE HRA.—
22 A health reimbursement arrangement
23 that, after the qualified HSA distribu-
24 tion is made, pays or reimburses bene-
25 fits for permitted insurance or cov-

1 erage described in clause (ii) (but not
2 for long-term care services).

3 “(V) RETIREMENT HRA.—A
4 health reimbursement arrangement
5 that, after the qualified HSA distribu-
6 tion is made, pays or reimburses only
7 those medical expenses incurred after
8 an individual’s retirement (and no ex-
9 penses incurred before retirement).

10 “(VI) SUSPENDED HRA.—A
11 health reimbursement arrangement
12 that, after the qualified HSA distribu-
13 tion is made, is suspended, pursuant
14 to an election made on or before the
15 date the individual elects a qualified
16 HSA distribution or, if later, on the
17 date of the individual enrolls in an
18 HSA-qualified health plan, that does
19 not pay or reimburse, at any time,
20 any medical expense incurred during
21 the suspension period except as de-
22 scribed in the preceding subclauses of
23 this clause.”.

1 (b) QUALIFIED HSA DISTRIBUTION SHALL NOT AF-
2 FECT FLEXIBLE SPENDING ARRANGEMENT.—Paragraph
3 (1) of section 106(e) is amended to read as follows:

4 “(1) IN GENERAL.—A plan shall not fail to be
5 treated as—

6 “(A) a health flexible spending arrange-
7 ment under this section, section 105, or section
8 125,

9 “(B) a health reimbursement arrangement
10 under this section or section 105, or

11 “(C) an accident or health plan,
12 merely because such plan provides for a qualified
13 HSA distribution.”.

14 (c) FSA BALANCES AT YEAR END SHALL NOT FOR-
15 FEIT.—Paragraph (2) of section 125(d) is amended by
16 adding at the end the following new subparagraph:

17 “(E) EXCEPTION FOR QUALIFIED HSA DIS-
18 TRIBUTIONS.—Subparagraph (A) shall not
19 apply to the extent that there is an amount re-
20 maining in a health flexible spending account at
21 the end of a plan year that an individual elects
22 to contribute to a health savings account pursu-
23 ant to a qualified HSA distribution (as defined
24 in section 106(e)(2)).”.

1 (d) SIMPLIFICATION OF LIMITATIONS ON FSA AND
2 HRA ROLLOVERS.—Paragraph (2) of section 106(e) is
3 amended to read as follows:

4 “(2) QUALIFIED HSA DISTRIBUTION.—

5 “(A) IN GENERAL.—The term ‘qualified
6 HSA distribution’ means a distribution from a
7 health flexible spending arrangement or health
8 reimbursement arrangement directly to a health
9 savings account of the employee to the extent
10 that such distribution does not exceed the lesser
11 of—

12 “(i) the balance in such arrangement
13 as of the date of such distribution, or

14 “(ii) the amount determined under
15 subparagraph (B).

16 Such term shall not include more than 1 dis-
17 tribution with respect to any arrangement.

18 “(B) DOLLAR LIMITATIONS.—

19 “(i) DISTRIBUTIONS FROM A HEALTH
20 FLEXIBLE SPENDING ARRANGEMENT.—A
21 qualified HSA distribution from a health
22 flexible spending arrangement shall not ex-
23 ceed the applicable amount.

24 “(ii) DISTRIBUTIONS FROM A HEALTH
25 REIMBURSEMENT ARRANGEMENT.—A

1 qualified HSA distribution from a health
 2 reimbursement arrangement shall not ex-
 3 ceed—

4 “(I) the applicable amount di-
 5 vided by 12, multiplied by

6 “(II) the number of months dur-
 7 ing which the individual is a partici-
 8 pant in the health reimbursement ar-
 9 rangement.

10 “(iii) APPLICABLE AMOUNT.—For
 11 purposes of this subparagraph, the applica-
 12 ble amount is—

13 “(I) \$2,250 in the case of an eli-
 14 gible individual who has self-only cov-
 15 erage under an HSA-qualified health
 16 plan at the time of such distribution,
 17 and

18 “(II) \$4,500 in the case of an eli-
 19 gible individual who has family cov-
 20 erage under an HSA-qualified health
 21 plan at the time of such distribu-
 22 tion.”.

23 (e) ELIMINATION OF ADDITIONAL TAX FOR FAILURE
 24 TO MAINTAIN HSA-QUALIFIED HEALTH PLAN COV-
 25 ERAGE.—Subsection (e) of section 106 is amended—

1 (1) by striking paragraph (3) and redesignating
2 paragraphs (4) and (5) as paragraphs (3) and (4),
3 respectively, and

4 (2) by striking subparagraph (A) of paragraph
5 (3), as so redesignated, and redesignating subpara-
6 graphs (B) and (C) of such paragraph as subpara-
7 graphs (A) and (B) thereof, respectively.

8 (f) LIMITED PURPOSE FSAS AND HRAS.—Sub-
9 section (e) of section 106, as amended by this section, is
10 amended by adding at the end the following new para-
11 graph:

12 “(5) LIMITED PURPOSE FSAS AND HRAS.—A
13 plan shall not fail to be a health flexible spending
14 arrangement, a health reimbursement arrangement,
15 or an accident or health plan under this section or
16 section 105 merely because the plan converts cov-
17 erage for individuals who enroll in an HSA-qualified
18 health plan described in section 223(c)(2) to cov-
19 erage described in subclause (I), (II), (III), (IV),
20 (V), or (VI) of section 223(c)(1)(B)(iv). Coverage
21 for such individuals may be converted as of the date
22 of enrollment in the HSA-qualified health plan,
23 without regard to the period of coverage under the
24 health flexible spending arrangement or health reim-
25 bursement arrangement, and without requiring any

1 change in coverage to individuals who do not enroll
2 in an HSA-qualified health plan.”.

3 (g) DISTRIBUTION AMOUNTS ADJUSTED FOR COST-
4 OF-LIVING.—Subsection (e) of section 106, as amended
5 by this section, is amended by adding at the end the fol-
6 lowing new paragraph:

7 “(6) COST-OF-LIVING ADJUSTMENT.—

8 “(A) IN GENERAL.—In the case of any
9 taxable year beginning in a calendar year after
10 2016, each of the dollar amounts in paragraph
11 (2)(B)(iii) shall be increased by an amount
12 equal to such dollar amount, multiplied by the
13 cost-of-living adjustment determined under sec-
14 tion 1(f)(3) for the calendar year in which such
15 taxable year begins by substituting ‘calendar
16 year 2015’ for ‘calendar year 1992’ in subpara-
17 graph (B) thereof.

18 “(B) ROUNDING.—If any increase under
19 paragraph (1) is not a multiple of \$50, such in-
20 crease shall be rounded to the nearest multiple
21 of \$50.”.

22 (h) DISCLAIMER OF DISQUALIFYING COVERAGE.—
23 Subparagraph (B) of section 223(c)(1), as amended by
24 this section, is amended—

25 (1) by striking “and” at the end of clause (iii),

1 (2) by striking the period at the end of clause
2 (iv) and inserting “, and”, and

3 (3) by inserting after clause (iv) the following
4 new clause:

5 “(v) any coverage (including prospec-
6 tive coverage) under a health plan that is
7 not an HSA-qualified health plan which is
8 disclaimed in writing, at the time of the
9 creation or organization of the health sav-
10 ings account, including by execution of a
11 trust described in subsection (d)(1)
12 through a governing instrument that in-
13 cludes such a disclaimer, or by acceptance
14 of an amendment to such a trust that in-
15 cludes such a disclaimer.”.

16 (i) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 the date of the enactment of this Act.

19 **SEC. 502. EQUIVALENT BANKRUPTCY PROTECTIONS FOR**
20 **HEALTH SAVINGS ACCOUNTS AS RETIRE-**
21 **MENT FUNDS.**

22 (a) IN GENERAL.—Section 522 of title 11, United
23 States Code, is amended by adding at the end the fol-
24 lowing new subsection:

1 “(r) TREATMENT OF HEALTH SAVINGS AC-
 2 COUNTS.—For purposes of this section, any health savings
 3 account (as described in section 223 of the Internal Rev-
 4 enue Code of 1986) shall be treated in the same manner
 5 as an individual retirement account described in section
 6 408 of such Code.”.

7 (b) EFFECTIVE DATE.—The amendment made by
 8 this section shall apply to cases commencing under title
 9 11, United States Code, after the date of the enactment
 10 of this Act.

11 **SEC. 503. ADMINISTRATIVE ERROR CORRECTION BEFORE**
 12 **DUE DATE OF RETURN.**

13 (a) IN GENERAL.—Paragraph (4) of section 223(f)
 14 is amended by adding at the end the following new sub-
 15 paragraph:

16 “(D) EXCEPTION FOR ADMINISTRATIVE
 17 ERRORS CORRECTED BEFORE DUE DATE OF RE-
 18 TURN.—Subparagraph (A) shall not apply if
 19 any payment or distribution is made to correct
 20 an administrative, clerical, or payroll contribu-
 21 tion error and if—

22 “(i) such distribution is received by
 23 the individual on or before the last day
 24 prescribed by law (including extensions of

1 time) for filing such individual's return for
2 such taxable year, and

3 “(ii) such distribution is accompanied
4 by the amount of net income attributable
5 to such contribution.

6 Any net income described in clause (ii) shall be
7 included in the gross income of the individual
8 for the taxable year in which it is received.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall take effect on the date of the enactment
11 of this Act.

12 **SEC. 504. REAUTHORIZATION OF MEDICAID HEALTH OP-**
13 **PORTUNITY ACCOUNTS.**

14 (a) IN GENERAL.—Section 1938 of the Social Secu-
15 rity Act (42 U.S.C. 1396u–8) is amended—

16 (1) in subsection (a)—

17 (A) by striking paragraph (2) and insert-
18 ing the following:

19 “(2) INITIAL DEMONSTRATION.—The Secretary
20 shall approve States to conduct demonstration pro-
21 grams under this section for a 5-year period, with
22 each State demonstration program covering one or
23 more geographic areas specified by the State. With
24 respect to a State, after the initial 5-year period of
25 any demonstration program conducted under this

1 section by the State, unless the Secretary finds, tak-
2 ing into account cost-effectiveness and quality of
3 care, that the State demonstration program has
4 been unsuccessful, the demonstration program may
5 be extended or made permanent in the State.”; and

6 (B) in paragraph (3), in the matter pre-
7 ceding subparagraph (A)—

8 (i) by striking “not”; and

9 (ii) by striking “unless” and inserting
10 “if”;

11 (2) in subsection (b)—

12 (A) in paragraph (3), by inserting “clause
13 (i) through (vii), (viii) (without regard to the
14 amendment made by section 2004(c)(2) of Pub-
15 lic Law 111–148), (x), or (xi) of” after “de-
16 scribed in”; and

17 (B) by striking paragraphs (4), (5), and
18 (6);

19 (3) in subsection (c)—

20 (A) by striking paragraphs (3) and (4);

21 (B) by redesignating paragraphs (5)
22 through (8) as paragraphs (3) through (6), re-
23 spectively; and

24 (C) in paragraph (4) (as redesignated by
25 subparagraph (B)), by striking “Subject to sub-

1 paragraphs (D) and (E)” and inserting “Sub-
 2 ject to subparagraph (D)”;

3 (4) in subsection (d)—

4 (A) in paragraph (2), by striking subpara-
 5 graph (E); and

6 (B) in paragraph (3)—

7 (i) in subparagraph (A)(ii), by strik-
 8 ing “Subject to subparagraph (B)(ii), in”
 9 and inserting “In”; and

10 (ii) by striking subparagraph (B) and
 11 inserting the following:

12 “(B) MAINTENANCE OF HEALTH OPPOR-
 13 TUNITY ACCOUNT AFTER BECOMING INELI-
 14 GIBLE FOR PUBLIC BENEFIT.—Notwithstanding
 15 any other provision of law, if an account holder
 16 of a health opportunity account becomes ineli-
 17 gible for benefits under this title because of an
 18 increase in income or assets—

19 “(i) no additional contribution shall be
 20 made into the account under paragraph
 21 (2)(A)(i); and

22 “(ii) the account shall remain avail-
 23 able to the account holder for 3 years after
 24 the date on which the individual becomes
 25 ineligible for such benefits for withdrawals

1 under the same terms and conditions as if
2 the account holder remained eligible for
3 such benefits, and such withdrawals shall
4 be treated as medical assistance in accord-
5 ance with subsection (c)(4).”.

6 (b) CONFORMING AMENDMENT.—Section 613 of
7 Public Law 111–3 is repealed.

8 **SEC. 505. EXCLUSION OF CERTAIN HEALTH ARRANGE-**
9 **MENTS FROM EMPLOYER-SPONSORED EX-**
10 **CISE TAX.**

11 (a) IN GENERAL.—Subparagraph (B) of section
12 4980I(d)(1) is amended by striking the period at the end
13 of clause (iii) and inserting “, or” and by adding at the
14 end the following new clause:

15 “(iv) any amounts contributed to an
16 Archer MSA under section 106(b), a
17 health savings account under section
18 106(d), or a health flexible spending ar-
19 rangement—

20 “(I) by an employee, or

21 “(II) by an employer through sal-
22 ary reduction contributions.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 4980I(d)(2)(B) is amended by
25 striking “shall be equal to the sum of” and all that

1 follows and inserting “shall be equal to the amount
 2 determined under subparagraph (A) with respect to
 3 any reimbursement under the arrangement in excess
 4 of any employer contributions under any salary re-
 5 duction election under the arrangement.”.

6 (2) Section 4980I(d)(2)(C) is amended by in-
 7 sserting “(determined without regard to any employer
 8 contributions under any salary reduction election
 9 under the arrangement)” before the period at the
 10 end.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to taxable years beginning after
 13 December 31, 2019.

14 **TITLE VI—OTHER PROVISIONS**

15 **SEC. 601. CERTAIN EXERCISE EQUIPMENT AND PHYSICAL** 16 **FITNESS PROGRAMS TREATED AS MEDICAL** 17 **CARE.**

18 (a) IN GENERAL.—Subsection (d) of section 213 is
 19 amended by adding at the end the following new para-
 20 graph:

21 “(12) EXERCISE EQUIPMENT AND PHYSICAL
 22 FITNESS ACTIVITY.—

23 “(A) IN GENERAL.—The term ‘medical
 24 care’ shall include amounts paid—

1 “(i) for equipment for use in a pro-
2 gram (including a self-directed program) of
3 physical exercise or physical activity,

4 “(ii) to participate, or receive instruc-
5 tion, in a program of physical exercise, nu-
6 trition, or health coaching (including a
7 self-directed program), and

8 “(iii) for membership at a fitness fa-
9 cility.

10 “(B) OVERALL DOLLAR LIMITATION.—

11 “(i) IN GENERAL.—Amounts treated
12 as medical care under subparagraph (A)
13 shall not exceed \$1,000 with respect to any
14 individual for any taxable year.

15 “(ii) EXCEPTION.—Clause (i) shall
16 not apply for purposes of determining
17 whether expenses reimbursed through a
18 health flexible spending arrangement sub-
19 ject to section 125(i)(1) are incurred for
20 medical care.

21 “(C) LIMITATIONS RELATED TO SPORTS
22 AND FITNESS EQUIPMENT.—Amounts paid for
23 equipment described in subparagraph (A)(i)
24 shall be treated as medical care only—

1 “(i) if such equipment is utilized ex-
2 clusively for participation in fitness, exer-
3 cise, sport, or other physical activity pro-
4 grams,

5 “(ii) if such equipment is not apparel
6 or footwear, and

7 “(iii) in the case of any item of sports
8 equipment (other than exercise equip-
9 ment), with respect to so much of the
10 amount paid for such item as does not ex-
11 ceed \$250.

12 “(D) FITNESS FACILITY DEFINED.—For
13 purposes of subparagraph (A)(iii), the term ‘fit-
14 ness facility’ means a facility—

15 “(i) providing instruction in a pro-
16 gram of physical exercise, offering facilities
17 for the preservation, maintenance, encour-
18 agement, or development of physical fit-
19 ness, or serving as the site of such a pro-
20 gram of a State or local government,

21 “(ii) which is not a private club owned
22 and operated by its members,

23 “(iii) which does not offer golf, hunt-
24 ing, sailing, or riding facilities,

1 “(iv) whose health or fitness facility is
2 not incidental to its overall function and
3 purpose, and

4 “(v) which is fully compliant with the
5 State of jurisdiction and Federal anti-dis-
6 crimination laws.”.

7 (b) **LIMITATION NOT TO APPLY FOR CERTAIN PUR-**
8 **POSES.—**

9 (1) **HEALTH SAVINGS ACCOUNTS.—**Subpara-
10 graph (A) of section 223(d)(2) is amended by insert-
11 ing “, determined without regard to paragraph
12 (12)(B) thereof” after “medical care (as defined in
13 section 213(d)”.

14 (2) **ARCHER MSAS.—**Subparagraph (A) of sec-
15 tion 220(d)(2) is amended by inserting “, deter-
16 mined without regard to paragraph (12)(B) thereof”
17 after “medical care (as defined in section 213(d)”.

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

21 **SEC. 602. CERTAIN NUTRITIONAL AND DIETARY SUPPLE-**
22 **MENTS TO BE TREATED AS MEDICAL CARE.**

23 (a) **IN GENERAL.—**Subsection (d) of section 213, as
24 amended by section 601, is amended by adding at the end
25 the following new paragraph:

1 “(13) NUTRITIONAL AND DIETARY SUPPLE-
2 MENTS.—

3 “(A) IN GENERAL.—The term ‘medical
4 care’ shall include amounts paid to purchase
5 herbs, vitamins, minerals, homeopathic rem-
6 edies, meal replacement products, and other di-
7 etary and nutritional supplements.

8 “(B) LIMITATION.—Amounts treated as
9 medical care under subparagraph (A) shall not
10 exceed \$1,000 with respect to any individual for
11 any taxable year.

12 “(C) MEAL REPLACEMENT PRODUCT.—
13 For purposes of this paragraph, the term ‘meal
14 replacement product’ means any product that—

15 “(i) is permitted to bear labeling mak-
16 ing a claim described in section 403(r)(3)
17 of the Federal Food, Drug, and Cosmetic
18 Act, and

19 “(ii) is permitted to claim under such
20 section that such product is low in fat and
21 is a good source of protein, fiber, and mul-
22 tiple essential vitamins and minerals.

23 “(D) EXCEPTION.—Subparagraph (B)
24 shall not apply for purposes of determining
25 whether expenses reimbursed through a health

1 flexible spending arrangement subject to section
2 125(i)(1) are incurred for medical care.”.

3 (b) LIMITATION NOT TO APPLY FOR CERTAIN PUR-
4 POSES.—

5 (1) HEALTH SAVINGS ACCOUNTS.—Subpara-
6 graph (A) of section 223(d)(2), as amended by sec-
7 tion 601, is amended by striking “paragraph
8 (12)(B)” and inserting “paragraphs (12)(B) and
9 (13)(B)”.

10 (2) ARCHER MSAS.—Subparagraph (A) of sec-
11 tion 220(d)(2), as amended by section 601, is
12 amended by striking “paragraph (12)(B)” and in-
13 serting “paragraphs (12)(B) and (13)(B)”.

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

17 **SEC. 603. CERTAIN PROVIDER FEES TO BE TREATED AS**
18 **MEDICAL CARE.**

19 (a) IN GENERAL.—Subsection (d) of section 213, as
20 amended by sections 601 and 602, is amended by adding
21 at the end the following new paragraph:

22 “(14) PERIODIC PROVIDER FEES.—The term
23 ‘medical care’ shall include—

24 “(A) periodic fees paid to a primary care
25 physician for a defined set of medical services

1 or the right to receive medical services on an
2 as-needed basis, and

3 “(B) pre-paid primary care services de-
4 signed to screen for, diagnose, cure, mitigate,
5 treat, or prevent disease and promote
6 wellness.”.

7 (b) EXCEPTION FOR FLEXIBLE SPENDING AC-
8 COUNTS.—Section 125 is amended by redesignating sub-
9 sections (k) and (l) as subsections (l) and (m), respec-
10 tively, and by inserting after subsection (j) the following
11 new subsection:

12 “(k) SPECIAL RULE WITH RESPECT TO HEALTH
13 FLEXIBLE SPENDING ARRANGEMENTS.—For purposes of
14 applying this with respect to any health flexible spending
15 arrangement, amounts described in section 213(d)(14)
16 shall not be considered insurance.”.

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

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