

111TH CONGRESS  
1ST SESSION

# S. 1153

To amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

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## IN THE SENATE OF THE UNITED STATES

MAY 21, 2009

Mr. SCHUMER (for himself, Ms. CANTWELL, Mr. MENENDEZ, Mr. DODD, Mr. KERRY, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

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.**

4       This Act may be cited as the “Tax Equity for Health  
5       Plan Beneficiaries Act of 2009”.

1 **SEC. 2. APPLICATION OF ACCIDENT AND HEALTH PLANS**  
 2 **TO ELIGIBLE BENEFICIARIES.**

3 (a) **EXCLUSION OF CONTRIBUTIONS.**—Section 106 of  
 4 the Internal Revenue Code of 1986 (relating to contribu-  
 5 tions by employer to accident and health plans) is amend-  
 6 ed by adding at the end the following new subsection:

7 “(f) **COVERAGE PROVIDED FOR ELIGIBLE BENE-**  
 8 **FICIARIES OF EMPLOYEES.**—

9 “(1) **IN GENERAL.**—Subsection (a) shall apply  
 10 with respect to any eligible beneficiary of the em-  
 11 ployee.

12 “(2) **ELIGIBLE BENEFICIARY.**—For purposes of  
 13 this subsection, the term ‘eligible beneficiary’ means  
 14 any individual who is eligible to receive benefits or  
 15 coverage under an accident or health plan.”.

16 (b) **EXCLUSION OF AMOUNTS EXPENDED FOR MED-**  
 17 **ICAL CARE.**—The first sentence of section 105(b) of such  
 18 Code (relating to amounts expended for medical care) is  
 19 amended—

20 (1) by striking “and his dependents” and in-  
 21 serting “his dependents”, and

22 (2) by inserting before the period the following:  
 23 “and any eligible beneficiary (within the meaning of  
 24 section 106(f)) with respect to the taxpayer”.

25 (c) **PAYROLL TAXES.**—

1           (1) Section 3121(a)(2) of such Code is amend-  
2       ed—

3                   (A) by striking “or any of his dependents”  
4       in the matter preceding subparagraph (A) and  
5       inserting “, any of his dependents, or any eligi-  
6       ble beneficiary (within the meaning of section  
7       106(f)) with respect to the employee”,

8                   (B) by striking “or any of his dependents,”  
9       in subparagraph (A) and inserting “, any of his  
10      dependents, or any eligible beneficiary (within  
11      the meaning of section 106(f)) with respect to  
12      the employee,” and

13                  (C) by striking “and their dependents”  
14      both places it appears and inserting “and such  
15      employees’ dependents and eligible beneficiaries  
16      (within the meaning of section 106(f))”.

17           (2) Section 3231(e)(1) of such Code is amend-  
18      ed—

19                   (A) by striking “or any of his dependents”  
20      and inserting “, any of his dependents, or any  
21      eligible beneficiary (within the meaning of sec-  
22      tion 106(f)) with respect to the employee,” and

23                   (B) by striking “and their dependents”  
24      both places it appears and inserting “and such

1 employees' dependents and eligible beneficiaries  
 2 (within the meaning of section 106(f))”.

3 (3) Section 3306(b)(2) of such Code is amend-  
 4 ed—

5 (A) by striking “or any of his dependents”  
 6 in the matter preceding subparagraph (A) and  
 7 inserting “, any of his dependents, or any eligi-  
 8 ble beneficiary (within the meaning of section  
 9 106(f)) with respect to the employee,”,

10 (B) by striking “or any of his dependents”  
 11 in subparagraph (A) and inserting “, any of his  
 12 dependents, or any eligible beneficiary (within  
 13 the meaning of section 106(f)) with respect to  
 14 the employee”, and

15 (C) by striking “and their dependents”  
 16 both places it appears and inserting “and such  
 17 employees' dependents and eligible beneficiaries  
 18 (within the meaning of section 106(f))”.

19 (4) Section 3401(a) of such Code is amended  
 20 by striking “or” at the end of paragraph (22), by  
 21 striking the period at the end of paragraph (23) and  
 22 inserting “; or”, and by inserting after paragraph  
 23 (23) the following new paragraph:

24 “(24) for any payment made to or for the ben-  
 25 efit of an employee or any eligible beneficiary (within

1 the meaning of section 106(f)) if at the time of such  
 2 payment it is reasonable to believe that the employee  
 3 will be able to exclude such payment from income  
 4 under section 106 or under section 105 by reference  
 5 in section 105(b) to section 106(f).”.

6 (d) EFFECTIVE DATE.—The amendments made by  
 7 this section shall apply to taxable years beginning after  
 8 December 31, 2009.

9 **SEC. 3. EXPANSION OF DEPENDENCY FOR PURPOSES OF**  
 10 **DEDUCTION FOR HEALTH INSURANCE COSTS**  
 11 **OF SELF-EMPLOYED INDIVIDUALS.**

12 (a) IN GENERAL.—Paragraph (1) of section 162(l)  
 13 of the Internal Revenue Code of 1986 (relating to special  
 14 rules for health insurance costs of self-employed individ-  
 15 uals) is amended to read as follows:

16 “(1) ALLOWANCE OF DEDUCTION.—In the case  
 17 of a taxpayer who is an employee within the mean-  
 18 ing of section 401(c)(1), there shall be allowed as a  
 19 deduction under this section an amount equal to the  
 20 amount paid during the taxable year for insurance  
 21 which constitutes medical care for—

22 “(A) the taxpayer,

23 “(B) the taxpayer’s spouse,

24 “(C) the taxpayer’s dependents, and

25 “(D) any individual who—

1 “(i) satisfies the age requirements of  
2 section 152(c)(3)(A),

3 “(ii) bears a relationship to the tax-  
4 payer described in section 152(d)(2)(H),  
5 and

6 “(iii) meets the requirements of sec-  
7 tion 152(d)(1)(C), and

8 “(E) one individual who—

9 “(i) does not satisfy the age require-  
10 ments of section 152(c)(3)(A),

11 “(ii) bears a relationship to the tax-  
12 payer described in section 152(d)(2)(H),

13 “(iii) meets the requirements of sec-  
14 tion 152(d)(1)(D), and

15 “(iv) is not the spouse of the taxpayer  
16 and does not bear any relationship to the  
17 taxpayer described in subparagraphs (A)  
18 through (G) of section 152(d)(2).”.

19 (b) CONFORMING AMENDMENT.—Subparagraph (B)  
20 of section 162(l)(2) of such Code is amended by inserting  
21 “, any dependent, or individual described in subparagraph  
22 (D) or (E) of paragraph (1) with respect to” after  
23 “spouse”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 2009.

4 **SEC. 4. EXTENSION TO ELIGIBLE BENEFICIARIES OF SICK**  
 5 **AND ACCIDENT BENEFITS PROVIDED TO**  
 6 **MEMBERS OF A VOLUNTARY EMPLOYEES’**  
 7 **BENEFICIARY ASSOCIATION AND THEIR DE-**  
 8 **PENDENTS.**

9 (a) IN GENERAL.—Section 501(c)(9) of the Internal  
 10 Revenue Code of 1986 (relating to list of exempt organiza-  
 11 tions) is amended by adding at the end the following new  
 12 sentence: “For purposes of providing for the payment of  
 13 sick and accident benefits to members of such an associa-  
 14 tion and their dependents, the term ‘dependents’ shall in-  
 15 clude any individual who is an eligible beneficiary (within  
 16 the meaning of section 106(f)), as determined under the  
 17 terms of a medical benefit, health insurance, or other pro-  
 18 gram under which members and their dependents are enti-  
 19 tled to sick and accident benefits.”.

20 (b) EFFECTIVE DATE.—The amendments made by  
 21 this section shall apply to taxable years beginning after  
 22 December 31, 2009.

1 **SEC. 5. FLEXIBLE SPENDING ARRANGEMENTS AND HEALTH**  
2 **REIMBURSEMENT ARRANGEMENTS.**

3 The Secretary of Treasury shall issue guidance of  
4 general applicability providing that medical expenses that  
5 otherwise qualify—

6 (1) for reimbursement from a flexible spending  
7 arrangement under regulations in effect on the date  
8 of the enactment of this Act may be reimbursed  
9 from an employee's flexible spending arrangement,  
10 notwithstanding the fact that such expenses are at-  
11 tributable to any individual who is not the employ-  
12 ee's spouse or dependent (within the meaning of sec-  
13 tion 105(b) of the Internal Revenue Code of 1986)  
14 but is an eligible beneficiary (within the meaning of  
15 section 106(f) of such Code) under the flexible  
16 spending arrangement with respect to the employee,  
17 and

18 (2) for reimbursement from a health reimburse-  
19 ment arrangement under regulations in effect on the  
20 date of the enactment of this Act may be reimbursed  
21 from an employee's health reimbursement arrange-  
22 ment, notwithstanding the fact that such expenses  
23 are attributable to an individual who is not a spouse  
24 or dependent (within the meaning of section 105(b)  
25 of such Code) but is an eligible beneficiary (within  
26 the meaning of section 106(f) of such Code) under



1 the health reimbursement arrangement with respect  
 2 to the employee.

3 **SEC. 6. EXTENSION OF QUALIFIED MEDICAL EXPENSES**  
 4 **FROM HEALTH SAVINGS ACCOUNTS.**

5 (a) IN GENERAL.—Subparagraph (A) of section  
 6 223(d)(2) of the Internal Revenue Code of 1986 (relating  
 7 to qualified medical expenses) is amended—

8 (1) by striking “and any dependent” and in-  
 9 serting “any dependent”, and

10 (2) by inserting “, and any qualified bene-  
 11 ficiary” after “thereof”).

12 (b) QUALIFIED BENEFICIARY.—Section 223(d)(2) of  
 13 such Code is amended by inserting after subparagraph (C)  
 14 the following new subparagraph:

15 “(D) QUALIFIED BENEFICIARY.—For pur-  
 16 poses of subparagraph (A), the term ‘qualified  
 17 beneficiary’ means any individual who is de-  
 18 scribed in subparagraph (D) or (E) of section  
 19 162(l)(1).”.

20 (c) EFFECTIVE DATE.—The amendments made by  
 21 this section shall apply to taxable years beginning after  
 22 December 31, 2009.

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