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115TH CONGRESS
2D SESSION

H. R. 6128

To amend the Internal Revenue Code of 1986 to allow certain kinds of insurance and health care for individuals allowed a deduction for contributions to a health savings account.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2018

Mr. KELLY of Pennsylvania (for himself and Mr. BERA) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to allow certain kinds of insurance and health care for individuals allowed a deduction for contributions to a health savings account.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘HSA Employer Flexibility Act’’.

SEC. 2. EXCEPTED BENEFITS ALLOWED AS PERMITTED INSURANCE.

(a) IN GENERAL.—Paragraph (3) of section 223(c) of the Internal Revenue Code of 1986 is amended by—

(1) redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and

(2) inserting the following new subparagraph:

"(B) insurance consisting of coverage of excepted benefits described in section 9832(c),".

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

SEC. 3. ON-SITE EMPLOYEE CLINICS AND RETAIL CLINICS.

(a) IN GENERAL.—Paragraph (1) of section 223(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR QUALIFIED ITEMS AND SERVICES.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in subclauses (I) and (II) of such subparagraph merely because the individual is eligible to receive, or receives, qualified items and services—

“(I) at a healthcare facility located at a facility owned or leased by the employer of the individual (or of the individual’s spouse),

“(II) at a healthcare facility operated primarily for the benefit of employees of the employer of the individual (or of the individual’s spouse), or

“(III) at a retail health clinic.

“(ii) QUALIFIED ITEMS AND SERVICES DEFINED.—For purposes of this subparagraph, the term ‘qualified items and services’ means the following:

“(I) Physical examination.

“(II) Immunizations, including injections of antigens provided by employees.

“(III) Drugs or biologicals other than a prescribed drug (as such term is defined in section 213(d)(3)).

“(IV) Treatment for injuries occurring in the course of employment.

“(V) Tests for conditions or infectious diseases.

"(VI) Management of chronic conditions or diseases.

"(VII) Drug testing.

"(VIII) Hearing or vision screenings and related services.

"(IX) Other similar items and services.

"(iii) RETAIL HEALTH CLINIC DEFINED.—For purposes of this subparagraph, the term 'retail health clinic' means a health care facility located within a supermarket, pharmacy, or similar retail establishment that offers medical care by a licensed healthcare provider.

"(iv) AGGREGATION.—For purposes of clause (i), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.".

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

SEC. 4. SAFE HARBOR FOR ABSENCE OF TELEHEALTH DEDUCTIBLE.

(a) IN GENERAL.—Section 223(c)(2) is amended by adding at the end the following new subparagraph:

"(E) SAFE HARBOR FOR ABSENCE OF TELEHEALTH DEDUCTIBLE.—A plan shall not fail to be treated as a high deductible health plan by reason of failing to have a deductible for telehealth services.".

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

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