

Union Calendar No. 653

115TH CONGRESS
2^D SESSION

H. R. 6305

[Report No. 115–844]

To amend the Internal Revenue Code of 1986 to improve access to health care through modernized health savings accounts.

IN THE HOUSE OF REPRESENTATIVES

JULY 3, 2018

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

JULY 19, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on July 3, 2018]

A BILL

To amend the Internal Revenue Code of 1986 to improve access to health care through modernized health savings accounts.

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 “Bipartisan HSA Im-*
 5 *provement Act of 2018”.*

6 **SEC. 2. CERTAIN EMPLOYMENT RELATED SERVICES NOT**
 7 **TREATED AS DISQUALIFYING COVERAGE FOR**
 8 **PURPOSES OF HEALTH SAVINGS ACCOUNTS.**

9 *(a) IN GENERAL.—Section 223(c)(1) of the Internal*
 10 *Revenue Code of 1986 is amended by adding at the end*
 11 *the following new subparagraph:*

12 *“(D) SPECIAL RULE FOR QUALIFIED ITEMS*
 13 *AND SERVICES.—*

14 *“(i) IN GENERAL.—An individual shall*
 15 *not be treated as covered under a health*
 16 *plan for purposes of subparagraph (A)(ii)*
 17 *merely because the individual, in connection*
 18 *with the employment of the individual or*
 19 *the individual’s spouse, receives (or is eligi-*
 20 *ble to receive) qualified items and services*
 21 *at—*

22 *“(I) a healthcare facility located*
 23 *at a facility owned or leased by the*
 24 *employer of the individual (or of the*
 25 *individual’s spouse), or operated pri-*

1 *marily for the benefit of such employ-*
2 *er's employees, or*

3 *“(II) a healthcare facility located*
4 *within a supermarket, pharmacy, or*
5 *similar retail establishment.*

6 *“(ii) QUALIFIED ITEMS AND SERVICES*
7 *DEFINED.—For purposes of this subpara-*
8 *graph, the term ‘qualified items and serv-*
9 *ices’ means the following:*

10 *“(I) Physical examinations.*

11 *“(II) Immunizations, including*
12 *injections of antigens provided by em-*
13 *ployees.*

14 *“(III) Drugs other than a pre-*
15 *scribed drug (as such term is defined*
16 *in section 213(d)(3)).*

17 *“(IV) Treatment for injuries oc-*
18 *curring in the course of employment.*

19 *“(V) Drug testing, if required as a*
20 *condition of employment.*

21 *“(VI) Hearing or vision*
22 *screenings.*

23 *“(VII) Other similar items and*
24 *services that do not provide significant*
25 *benefits in the nature of medical care.*

1 “(iii) *AGGREGATION*.—For purposes of
 2 *clause (i)(I), all persons treated as a single*
 3 *employer under subsection (b), (c), (m), or*
 4 *(o) of section 414 shall be treated as a single*
 5 *employer.”.*

6 (b) *EFFECTIVE DATE*.—The amendments made by this
 7 section shall apply to months beginning after December 31,
 8 2018, in taxable years ending after such date.

9 **SEC. 3. CONTRIBUTIONS PERMITTED IF SPOUSE HAS A**
 10 **HEALTH FLEXIBLE SPENDING ACCOUNT.**

11 (a) *CONTRIBUTIONS PERMITTED IF SPOUSE HAS A*
 12 *HEALTH FLEXIBLE SPENDING ACCOUNT*.—Section
 13 223(c)(1)(B) of the Internal Revenue Code of 1986 is
 14 amended by striking “and” at the end of clause (ii), by
 15 striking the period at the end of clause (iii) and inserting
 16 “, and”, and by inserting after clause (iii) the following
 17 new clause:

18 “(iv) coverage under a health flexible
 19 spending arrangement of the spouse of the
 20 individual for any plan year of such ar-
 21 rangement if the aggregate reimbursements
 22 under such arrangement for such year do
 23 not exceed the aggregate expenses which
 24 would be eligible for reimbursement under
 25 such arrangement if such expenses were de-

1 *terminated without regard to any expenses*
 2 *paid or incurred with respect to such indi-*
 3 *vidual.”.*

4 ***(b) EFFECTIVE DATE.***—*The amendment made by this*
 5 *section shall apply to plan years beginning after December*
 6 *31, 2018.*

7 ***SEC. 4. FSA AND HRA TERMINATIONS OR CONVERSIONS TO***
 8 ***FUND HSAS.***

9 ***(a) IN GENERAL.***—*Section 106(e)(2) of the Internal*
 10 *Revenue Code of 1986 is amended to read as follows:*

11 ***“(2) QUALIFIED HSA DISTRIBUTION.***—*For pur-*
 12 *poses of this subsection—*

13 ***“(A) IN GENERAL.***—*The term ‘qualified*
 14 *HSA distribution’ means, with respect to any*
 15 *employee, a distribution from a health flexible*
 16 *spending arrangement or health reimbursement*
 17 *arrangement of such employee directly to a*
 18 *health savings account of such employee if—*

19 ***“(i) such distribution is made in con-***
 20 *nection with such employee establishing cov-*
 21 *erage under a high deductible health plan*
 22 *(as defined in section 223(c)(2)) after a sig-*
 23 *nificant period of not having such coverage,*
 24 *and*

1 “(ii) such arrangement is described in
 2 section 223(c)(1)(B)(iii) with respect to the
 3 portion of the plan year after such distribu-
 4 tion is made.

5 “(B) DOLLAR LIMITATION.—The aggregate
 6 amount of distributions from health flexible
 7 spending arrangements and health reimburse-
 8 ment arrangements of any employee which may
 9 be treated as qualified HSA distributions in con-
 10 nection with an establishment of coverage de-
 11 scribed in subparagraph (A)(i) shall not exceed
 12 the dollar amount in effect under section
 13 125(i)(1) (twice such amount in the case of cov-
 14 erage which is described in section
 15 223(b)(2)(B)).”.

16 (b) PARTIAL REDUCTION OF LIMITATION ON DEDUCT-
 17 IBLE HSA CONTRIBUTIONS.—Section 223(b)(4) of such
 18 Code is amended by striking “and” at the end of subpara-
 19 graph (B), by striking the period at the end of subpara-
 20 graph (C) and inserting “, and”, and by inserting after
 21 subparagraph (C) the following new subparagraph:

22 “(D) so much of any qualified HSA dis-
 23 tribution (as defined in section 106(e)(2)) made
 24 to a health savings account of such individual
 25 during the taxable year as does not exceed the

1 *aggregate increases in the balance of the arrange-*
 2 *ment from which such distribution is made*
 3 *which occur during the portion of the plan year*
 4 *which precedes such distribution (other than any*
 5 *balance carried over to such plan year and deter-*
 6 *mined without regard to any decrease in such*
 7 *balance during such portion of the plan year).”.*

8 *(c) CONVERSION TO HSA-COMPATIBLE ARRANGEMENT*
 9 *FOR REMAINDER OF PLAN YEAR.—Section*
 10 *223(c)(1)(B)(iii) of such Code, as amended by the preceding*
 11 *provisions of this Act, is amended to read as follows:*

12 *“(iii) coverage under a health flexible*
 13 *spending arrangement or health reimburse-*
 14 *ment arrangement for the portion of the*
 15 *plan year after a qualified HSA distribu-*
 16 *tion (as defined in section 106(e)(2) deter-*
 17 *mined without regard to subparagraph*
 18 *(A)(ii) thereof) is made, if the terms of such*
 19 *arrangement which apply for such portion*
 20 *of the plan year are such that, if such terms*
 21 *applied for the entire plan year, then such*
 22 *arrangement would not be taken into ac-*
 23 *count under subparagraph (A)(ii) of this*
 24 *paragraph for such plan year, and”.*

1 (d) *INCLUSION OF QUALIFIED HSA DISTRIBUTIONS*
 2 ON W-2.—

3 (1) *IN GENERAL.*—Section 6051(a) of such Code
 4 is amended by striking “and” at the end of para-
 5 graph (16), by striking the period at the end of para-
 6 graph (17) and inserting “, and”, and by inserting
 7 after paragraph (17) the following new paragraph:

8 “(18) the amount of any qualified HSA distribu-
 9 tion (as defined in section 106(e)(2)) with respect to
 10 such employee.”.

11 (2) *CONFORMING AMENDMENT.*—Section
 12 6051(a)(12) of such Code is amended by inserting
 13 “(other than any qualified HSA distribution, as de-
 14 fined in section 106(e)(2))” before the comma at the
 15 end.

16 (e) *EFFECTIVE DATE.*—The amendments made by this
 17 section shall apply to distributions made after December 31,
 18 2018, in taxable years ending after such date.

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