

117TH CONGRESS
1ST SESSION

S. 153

To amend the Internal Revenue Code of 1986 to expand and improve health savings accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2021

Mr. CRUZ (for himself and Mr. RISCH) 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 expand and improve 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.**

4 This Act may be cited as the “Personalized Care Act
5 of 2021”.

6 **SEC. 2. HEALTH SAVINGS ACCOUNT ELIGIBILITY.**

7 (a) IN GENERAL.—Paragraph (1) of section 223(c)
8 of the Internal Revenue Code of 1986 is amended to read
9 as follows:

1 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
2 individual’ means, with respect to any month, any
3 individual if such individual is—

4 “(A) covered under—

5 “(i) a group or individual health plan,

6 “(ii) health insurance coverage, in-
7 cluding a short term limited duration plan
8 or medical indemnity plan, or

9 “(iii) a government plan, including
10 coverage under the Medicare program
11 under part A or part B of title XVIII of
12 the Social Security Act, the Medicaid pro-
13 gram under title XIX of such Act, the
14 CHIP program under title XXI of such
15 Act or a qualified CHIP look-alike pro-
16 gram (as defined in section 2107(g) of
17 such Act), medical coverage under chapter
18 55 of title 10, United States Code (includ-
19 ing coverage under the TRICARE pro-
20 gram), a health care program under chap-
21 ter 17 or 18 of title 38, United States
22 Code, as determined by the Secretary of
23 Veterans Affairs in coordination with the
24 Secretary of Health and Human Services
25 and the Secretary, a medical care program

1 of the Indian Health Service or a tribal or-
 2 ganization, or coverage under chapter 89
 3 of title 5, United States Code, or

4 “(B) a participant in a health care sharing
 5 ministry (as defined in section
 6 5000A(d)(2)(B)(ii)),
 7 as of the 1st day of such month.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Subsection (c) of section 223 of such Code
 10 is amended by striking paragraphs (2) and (3) and
 11 by redesignating paragraphs (4) and (5) as para-
 12 graphs (2) and (3), respectively.

13 (2) Paragraphs (2)(A) and (2)(B) of section
 14 223(b) of such Code are each amended by striking
 15 “a high deductible health plan” and inserting “a
 16 health plan, insurance, or ministry described in sub-
 17 section (c)(1)”.

18 (3) Paragraph (8)(A)(ii) of section 223(b) of
 19 such Code is amended by striking “high deductible
 20 health plan” and inserting “health plan, insurance,
 21 or ministry described in subsection (c)(1)”.

22 (4) Section 223(g)(1) of such Code is amend-
 23 ed—

1 (A) by striking “subsections (b)(2) and
 2 (c)(2)(A)” both places it appears and inserting
 3 “subsection (b)(2)”, and

4 (B) by striking “for ‘calendar year 2016’”
 5 in subparagraph (B) and all that follows
 6 through “‘calendar year 2003’.” and inserting
 7 “‘calendar year 1997’ for ‘calendar year 2016’
 8 in subparagraph (A)(ii) thereof.”.

9 (5) The heading of subparagraph (B) of section
 10 223(b)(8) of such Code is amended by striking
 11 “HIGH DEDUCTIBLE HEALTH PLAN”.

12 (6) Section 26(b)(2)(S) of such Code is amend-
 13 ed by striking “high deductible health plan”.

14 (7) The heading of paragraph (3) of section
 15 106(e) of such Code is amended by striking “HIGH
 16 DEDUCTIBLE HEALTH PLAN”.

17 (8) Clause (ii) of section 106(e)(5)(B) of such
 18 Code is amended by striking “a high deductible
 19 health plan” and inserting “a health plan”.

20 (9) Paragraph (9) of section 408(d) of such
 21 Code is amended—

22 (A) by striking “the high deductible health
 23 plan covering” in subparagraph (C)(i)(I) and
 24 inserting “health plan, insurance, or ministry
 25 of”,

1 (B) by striking “a high deductible health
 2 plan” the first place it appears in subparagraph
 3 (C)(ii)(II) and inserting “a health plan, insur-
 4 ance, or ministry described in section
 5 223(c)(1)”,

6 (C) by striking “a high deductible health
 7 plan” the second place it appears in subpara-
 8 graph (C)(ii)(II) and inserting “any such plan,
 9 insurance, or ministry”, and

10 (D) by striking “HIGH DEDUCTIBLE
 11 HEALTH PLAN” in the heading of subparagraph
 12 (D).

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to taxable years beginning after
 15 December 31, 2020.

16 **SEC. 3. INCREASE IN HSA CONTRIBUTION LIMITS.**

17 (a) IN GENERAL.—Paragraph (2) of section 223(b)
 18 of the Internal Revenue Code of 1986 is amended—

19 (1) by striking “\$2,250” in subparagraph (A)
 20 and inserting “\$10,800”, and

21 (2) by striking “\$4,500” in subparagraph (B)
 22 and inserting “\$29,500”.

23 (b) COST-OF-LIVING ADJUSTMENT.—Paragraph (1)
 24 of section 223(g) of the Internal Revenue Code of 1986,
 25 as amended by section 2, is amended—

1 (1) by striking “Each” and inserting “In the
2 case of a taxable year beginning after 2021, each”,
3 and

4 (2) by striking “calendar year 1997” and in-
5 serting “calendar year 2020”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2020.

9 **SEC. 4. PAYMENT OF HEALTH PLAN AND HEALTH INSUR-**
10 **ANCE PREMIUMS FROM HSA.**

11 (a) IN GENERAL.—Paragraph (2) of section 223(d)
12 of the Internal Revenue Code of 1986 is amended—

13 (1) by striking subparagraph (B),

14 (2) by redesignating subparagraphs (C) and
15 (D) as subparagraphs (B) and (C), respectively,

16 (3) by striking “Subparagraph (B) shall not
17 apply to any expense for coverage under” in sub-
18 paragraph (B), as so redesignated, and inserting
19 “Subparagraph (A) shall not apply to any payment
20 for insurance other than”, and

21 (4) in subparagraph (B), as so redesignated—

22 (A) by striking “or” at the end of clause
23 (iii),

24 (B) by striking the period at the end of
25 clause (iv) and inserting “, or”, and

1 (C) by adding at the end the following new
 2 clause:

3 “(v) a health plan or health insurance
 4 coverage described in subsection
 5 (c)(1)(A).”.

6 (b) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to taxable years beginning after
 8 December 31, 2020.

9 **SEC. 5. TREATMENT OF MEDICAL CARE SERVICE ARRANGE-**
 10 **MENTS.**

11 (a) INCLUSION AS MEDICAL EXPENSES.—Paragraph
 12 (2) of section 223(d) of the Internal Revenue Code of
 13 1986, as amended by section 4, is further amended by
 14 adding at the end the following new subparagraph:

15 “(D) INCLUSION OF MEDICAL CARE SERV-
 16 ICE ARRANGEMENTS.—The term ‘qualified med-
 17 ical expenses’ shall include—

18 “(i) periodic fees paid to a physician
 19 for a defined set of medical services or for
 20 the right to receive medical services on an
 21 as-needed basis, and

22 “(ii) amounts prepaid for medical
 23 services designed to screen for, diagnose,
 24 cure, mitigate, treat, or prevent disease
 25 and promote wellness.”.

1 (b) ARRANGEMENT NOT TO BE TREATED AS
 2 HEALTH INSURANCE.—Subsection (c) of section 223 of
 3 the Internal Revenue Code of 1986, as amended by section
 4 2(b), is further amended by adding at the end the fol-
 5 lowing new paragraph:

6 “(4) TREATMENT OF MEDICAL CARE SERVICE
 7 ARRANGEMENTS.—An arrangement under which an
 8 individual is provided medical services in exchange
 9 for a fixed periodic fee or payment for such services
 10 shall not be treated as a health plan, insurance, or
 11 arrangement described in paragraph (1).”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 December 31, 2020.

15 **SEC. 6. PERIODIC PROVIDER FEES TREATED AS MEDICAL**
 16 **CARE.**

17 (a) IN GENERAL.—Section 213(d) of the Internal
 18 Revenue Code of 1986 is amended by adding at the end
 19 the following new paragraph:

20 “(12) PERIODIC PROVIDER FEES.—Periodic
 21 fees paid for a defined set of medical services pro-
 22 vided on an as-needed basis shall be treated as
 23 amounts paid for medical care.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2020.

4 **SEC. 7. RESTORING LOWER PENALTY FOR NONQUALIFIED**
 5 **DISTRIBUTIONS.**

6 (a) IN GENERAL.—Section 223(e)(4)(A) of the Inter-
 7 nal Revenue Code of 1986 is amended by striking “20 per-
 8 cent” and inserting “10 percent”.

9 (b) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to distributions made in taxable
 11 years beginning after December 31, 2020.

12 **SEC. 8. TREATMENT OF HEALTH CARE SHARING MIN-**
 13 **ISTRIES.**

14 (a) INCLUSION AS MEDICAL EXPENSES.—Paragraph
 15 (2) of section 223(d) of the Internal Revenue Code of
 16 1986, as amended by sections 4 and 5, is further amended
 17 by adding at the end the following new subparagraph:

18 “(E) INCLUSION OF HEALTH CARE SHAR-
 19 ING MINISTRIES.—The term ‘qualified medical
 20 expenses’ shall include amounts paid by a mem-
 21 ber of a health care sharing ministry (as de-
 22 fined in section 5000A(d)(2)(B)(ii)) for—

23 “(i) the sharing of medical expenses
 24 among members, and

1 “(ii) administrative fees of the min-
2 istry.”.

3 (b) HEALTH CARE SHARING MINISTRY NOT TO BE
4 TREATED AS HEALTH INSURANCE.—Subsection (c) of
5 section 223 of the Internal Revenue Code of 1986, as
6 amended by sections 2 and 5, is further amended by add-
7 ing at the end the following new paragraph:

8 “(5) TREATMENT OF HEALTH CARE SHARING
9 MINISTRIES.—A health care sharing ministry (as de-
10 fined in section 5000A(d)(2)(B)(ii)) shall not be
11 treated as a health plan or insurance for purposes
12 of this title.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2020.

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