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113TH CONGRESS
1ST SESSION

H. R. 2194

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 HOUSE OF REPRESENTATIVES

MAY 23, 2013

Mr. PAULSEN introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Judiciary and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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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.

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Family and Retirement Health Investment Act of 2013''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment

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

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

Sec. 1. Short title, etc.

TITLE I—PROVISIONS RELATING TO TAX-PREFERRED HEALTH ACCOUNTS

Sec. 101. Allow both spouses to make catch-up contributions to the same HSA account.
Sec. 102. Provisions relating to Medicare.
Sec. 103. Individuals eligible for veterans benefits for a service-connected disability.
Sec. 104. Individuals eligible for Indian Health Service assistance.
Sec. 105. Individuals eligible for TRICARE coverage.
Sec. 106. FSA and HRA interaction with HSAs.
Sec. 107. Allowance of distributions for prescription and over-the-counter medicines and drugs.
Sec. 108. Purchase of health insurance from HSA account.
Sec. 109. Special rule for certain medical expenses incurred before establishment of account.
Sec. 110. Preventive care prescription drug clarification.
Sec. 111. Equivalent bankruptcy protections for health savings accounts as retirement funds.
Sec. 112. Administrative error correction before due date of return.
Sec. 113. Reauthorization of medicaid health opportunity accounts.
Sec. 114. Members of health care sharing ministries eligible to establish health savings accounts.
Sec. 115. High deductible health plans renamed HSA qualified plans.
Sec. 116. Treatment of direct primary care service arrangements.
Sec. 117. High deductible health plans with HSAs treated as qualified health plans.
Sec. 118. Certain stand-alone HRAs not subject to prohibition on annual limits.

TITLE II—OTHER PROVISIONS

Sec. 201. Certain exercise equipment and physical fitness programs treated as medical care.
Sec. 202. Certain nutritional and dietary supplements to be treated as medical care.
Sec. 203. Certain provider fees to be treated as medical care.
Sec. 204. Repeal of annual limitations on deductibles for employer-sponsored plans offered in small group market.

TITLE I—PROVISIONS RELATING TO TAX-PREFERRED HEALTH ACCOUNTS

SEC. 101. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CONTRIBUTIONS TO THE SAME HSA ACCOUNT.

(a) IN GENERAL.—Paragraph (3) of section 223(b) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE WHERE BOTH SPOUSES ARE ELIGIBLE INDIVIDUALS WITH 1 ACCOUNT.—If—

"(i) an individual and the individual's spouse have both attained age 55 before the close of the taxable year, and

"(ii) the spouse is not an account beneficiary of a health savings account as of the close of such year,

the additional contribution amount shall be 200 percent of the amount otherwise determined under subparagraph (B).".

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

SEC. 102. PROVISIONS RELATING TO MEDICARE.

(a) INDIVIDUALS OVER AGE 65 ONLY ENROLLED IN MEDICARE PART A.—Paragraph (7) of section 223(b) is amended by adding at the end the following: ''This paragraph shall not apply to any individual during any period for which the individual's only entitlement to such benefits is an entitlement to hospital insurance benefits under part A of title XVIII of such Act pursuant to an enrollment for such hospital insurance benefits under section 226(a)(1) of such Act.''.

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

(1) IN GENERAL.—Subsection (b) of section 138 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 138(c) is amended by striking ''and paragraph (2)''.

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

SEC. 103. INDIVIDUALS ELIGIBLE FOR VETERANS BENEFITS FOR A SERVICE-CONNECTED DISABILITY.

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

"(C) SPECIAL RULE FOR INDIVIDUALS ELIGIBLE FOR CERTAIN VETERANS BENEFITS.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in such subparagraph merely because the individual receives periodic hospital care or medical services for a service-connected disability under any law administered by the Secretary of Veterans Affairs but only if the individual is not eligible to receive such care or services for any condition other than a service-connected disability.".

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

SEC. 104. INDIVIDUALS ELIGIBLE FOR INDIAN HEALTH SERVICE ASSISTANCE.

(a) IN GENERAL.—Paragraph (1) of section 223(c), as amended by section 103, is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR INDIVIDUALS ELIGIBLE FOR ASSISTANCE UNDER INDIAN HEALTH SERVICE PROGRAMS.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in such subparagraph merely because the individual receives hospital care or medical services under a medical care program of the Indian Health Service or of a tribal organization.".

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

SEC. 105. INDIVIDUALS ELIGIBLE FOR TRICARE COVERAGE.

(a) IN GENERAL.—Paragraph (1) of section 223(c), as amended by sections 103 and 104, is amended by adding at the end the following new subparagraph:

"(E) SPECIAL RULE FOR INDIVIDUALS ELIGIBLE FOR ASSISTANCE UNDER TRICARE.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in such subparagraph merely because the individual is eligible to receive hospital care, medical services, or prescription drugs under TRICARE Extra or TRICARE

Standard and such individual is not enrolled in TRICARE Prime.''.

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

SEC. 106. FSA AND HRA INTERACTION WITH HSAS.

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

(1) by striking ''and'' at the end of clause (ii),

(2) by striking the period at the end of clause (iii) and inserting '', and'', and

(3) by inserting after clause (iii) the following new clause:

''(iv) coverage under a health flexible spending arrangement or a health reimbursement arrangement in the plan year a qualified HSA distribution as described in section 106(e) is made on behalf of the individual if after the qualified HSA distribution is made and for the remaining duration of the plan year, the coverage provided under the health flexible spending arrangement or health reimbursement arrangement is converted to—

"(I) coverage that does not pay or reimburse any medical expense incurred before the minimum annual deductible under paragraph (2)(A)(i) (prorated for the period occurring after the qualified HSA distribution is made) is satisfied,

"(II) coverage that, after the qualified HSA distribution is made, does not pay or reimburse any medical expense incurred after the qualified HSA distribution is made other than preventive care as defined in paragraph (2)(C),

"(III) coverage that, after the qualified HSA distribution is made, pays or reimburses benefits for coverage described in clause (ii) (but not through insurance or for long-term care services),

"(IV) coverage that, after the qualified HSA distribution is made, pays or reimburses benefits for permitted insurance or coverage de-

scribed in clause (ii) (but not for long-term care services),

"(V) coverage that, after the qualified HSA distribution is made, pays or reimburses only those medical expenses incurred after an individual's retirement (and no expenses incurred before retirement), or

"(VI) coverage that, after the qualified HSA distribution is made, is suspended, pursuant to an election made on or before the date the individual elects a qualified HSA distribution or, if later, on the date of the individual enrolls in a high deductible health plan, that does not pay or reimburse, at any time, any medical expense incurred during the suspension period except as defined in the preceding subclauses of this clause.".

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

"(1) IN GENERAL.—A plan shall not fail to be treated as a health flexible spending arrangement

under this section, section 105, or section 125, or as a health reimbursement arrangement under this section or section 105, merely because such plan provides for a qualified HSA distribution.''.

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

''(E) EXCEPTION FOR QUALIFIED HSA DISTRIBUTIONS.—Subparagraph (A) shall not apply to the extent that there is an amount remaining in a health flexible spending account at the end of a plan year that an individual elects to contribute to a health savings account pursuant to a qualified HSA distribution (as defined in section 106(e)(2)).''.

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

''(2) QUALIFIED HSA DISTRIBUTION.—

''(A) IN GENERAL.—The term 'qualified HSA distribution' means a distribution from a health flexible spending arrangement or health reimbursement arrangement to the extent that such distribution does not exceed the lesser of—

"(i) the balance in such arrangement as of the date of such distribution, or

"(ii) the amount determined under subparagraph (B).

Such term shall not include more than 1 distribution with respect to any arrangement.

"(B) DOLLAR LIMITATIONS.—

"(i) DISTRIBUTIONS FROM A HEALTH FLEXIBLE SPENDING ARRANGEMENT.—A qualified HSA distribution from a health flexible spending arrangement shall not exceed the applicable amount.

"(ii) DISTRIBUTIONS FROM A HEALTH REIMBURSEMENT ARRANGEMENT.—A qualified HSA distribution from a health reimbursement arrangement shall not exceed—

"(I) the applicable amount divided by 12, multiplied by

"(II) the number of months during which the individual is a participant in the health reimbursement arrangement.

"(iii) APPLICABLE AMOUNT.—For purposes of this subparagraph, the applicable amount is—

"(I) $2,250 in the case of an eligible individual who has self-only coverage under a high deductible health plan at the time of such distribution, and

"(II) $4,500 in the case of an eligible individual who has family coverage under a high deductible health plan at the time of such distribution.".

(e) ELIMINATION OF ADDITIONAL TAX FOR FAILURE TO MAINTAIN HIGH DEDUCTIBLE HEALTH PLAN COVERAGE.—Subsection (e) of section 106 is amended—

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

(2) by striking subparagraph (A) of paragraph (3), as so redesignated, and redesignating subparagraphs (B) and (C) of such paragraph as subparagraphs (A) and (B) thereof, respectively.

(f) LIMITED PURPOSE FSAS AND HRAS.—Subsection (e) of section 106, as amended by this section, is

amended by adding at the end the following new paragraph:

"(5) LIMITED PURPOSE FSAS AND HRAS.—A plan shall not fail to be a health flexible spending arrangement or health reimbursement arrangement under this section or section 105 merely because the plan converts coverage for individuals who enroll in a high deductible health plan described in section 223(c)(2) to coverage described in section 223(c)(1)(B)(iv). Coverage for such individuals may be converted as of the date of enrollment in the high deductible health plan, without regard to the period of coverage under the health flexible spending arrangement or health reimbursement arrangement, and without requiring any change in coverage to individuals who do not enroll in a high deductible health plan.".

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

"(6) COST-OF-LIVING ADJUSTMENT.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2013, each of the dollar amounts in paragraph

(2)(B)(iii) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting 'calendar year 2012' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any increase under paragraph (1) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.".

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

(1) by striking "and" at the end of clause (iii),

(2) by striking the period at the end of clause (iv) and inserting ", and", and

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

"(v) any coverage (including prospective coverage) under a health plan that is not a high deductible health plan which is disclaimed in writing, at the time of the creation or organization of the health savings account, including by execution of a

trust described in subsection (d)(1) through a governing instrument that includes such a disclaimer, or by acceptance of an amendment to such a trust that includes such a disclaimer.''.

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

SEC. 107. ALLOWANCE OF DISTRIBUTIONS FOR PRESCRIPTION AND OVER-THE-COUNTER MEDICINES AND DRUGS.

(a) HSAS.—Section 223(d)(2)(A) is amended by striking the last sentence thereof and inserting the following: ''Such term shall include an amount paid for any prescription or over-the-counter medicine or drug.''.

(b) ARCHER MSAS.—Section 220(d)(2)(A) is amended by striking the last sentence thereof and inserting the following: ''Such term shall include an amount paid for any prescription or over-the-counter medicine or drug.''.

(c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Subsection (f) of section 106 is amended to read as follows:

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

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

(d) EFFECTIVE DATE.—

(1) DISTRIBUTIONS FROM SAVINGS ACCOUNTS.—The amendments made by subsections (a) and (b) shall apply to amounts paid with respect to taxable years beginning after December 31, 2012.

(2) REIMBURSEMENTS.—The amendment made by subsection (c) shall apply to expenses incurred with respect to taxable years beginning after December 31, 2012.

SEC. 108. PURCHASE OF HEALTH INSURANCE FROM HSA ACCOUNT.

(a) IN GENERAL.—Paragraph (2) of section 223(d) is amended to read as follows:

''(2) QUALIFIED MEDICAL EXPENSES.—

''(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account beneficiary, amounts paid by such beneficiary for medical care (as defined in section 213(d)) for any individual covered by a high deductible health plan of the account beneficiary, but only to the extent such amounts are not compensated for by insurance or otherwise.

"(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—Except as provided in subparagraph (C), subparagraph (A) shall not apply to any payment for insurance.

"(C) EXCEPTIONS.—Subparagraph (B) shall not apply to any expense for coverage under—

"(i) a health plan during any period of continuation coverage required under any Federal law,

"(ii) a qualified long-term care insurance contract (as defined in section 7702B(b)),

"(iii) a health plan during any period in which the individual is receiving unemployment compensation under any Federal or State law,

"(iv) a high deductible health plan, or

"(v) any health insurance under title XVIII of the Social Security Act, other than a Medicare supplemental policy (as defined in section 1882 of such Act).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to insurance pur-

chased after the date of the enactment of this Act in taxable years beginning after such date.

SEC. 109. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT.

(a) IN GENERAL.—Paragraph (2) of section 223(d), as amended by section 108, is amended by adding at the end the following new subparagraph:

"(D) CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT TREATED AS QUALIFIED.—An expense shall not fail to be treated as a qualified medical expense solely because such expense was incurred before the establishment of the health savings account if such expense was incurred—

"(i) during either—

"(I) the taxable year in which the health savings account was established, or

"(II) the preceding taxable year in the case of a health savings account established after the taxable year in which such expense was incurred but before the time prescribed by law for filing the return for such

taxable year (not including extensions thereof), and

"(ii) for medical care of an individual during a period that such individual was covered by a high deductible health plan and met the requirements of subsection (c)(1)(A)(ii) (after application of subsection (c)(1)(B))."

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

SEC. 110. PREVENTIVE CARE PRESCRIPTION DRUG CLARIFICATION.

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

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 111. EQUIVALENT BANKRUPTCY PROTECTIONS FOR HEALTH SAVINGS ACCOUNTS AS RETIREMENT FUNDS.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(r) TREATMENT OF HEALTH SAVINGS ACCOUNTS.—For purposes of this section, any health savings account (as described in section 223 of the Internal Revenue Code of 1986) shall be treated in the same manner as an individual retirement account described in section 408 of such Code.''.

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

SEC. 112. ADMINISTRATIVE ERROR CORRECTION BEFORE DUE DATE OF RETURN.

(a) IN GENERAL.—Paragraph (4) of section 223(f) is amended by adding at the end the following new subparagraph:

''(D) EXCEPTION FOR ADMINISTRATIVE ERRORS CORRECTED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply if any payment or distribution is made to correct

an administrative, clerical or payroll contribution error and if—

"(i) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(ii) such distribution is accompanied by the amount of net income attributable to such contribution.

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

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

SEC. 113. REAUTHORIZATION OF MEDICAID HEALTH OPPORTUNITY ACCOUNTS.

(a) IN GENERAL.—Section 1938 of the Social Security Act (42 U.S.C. 1396u–8) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

"(2) INITIAL DEMONSTRATION.—The demonstration program under this section shall begin on

January 1, 2007. The Secretary shall approve States to conduct demonstration programs under this section for a 5-year period, with each State demonstration program covering one or more geographic areas specified by the State. With respect to a State, after the initial 5-year period of any demonstration program conducted under this section by the State, unless the Secretary finds, taking into account cost-effectiveness and quality of care, that the State demonstration program has been unsuccessful, the demonstration program may be extended or made permanent in the State.''; and

(B) in paragraph (3), in the matter preceding subparagraph (A)—

(i) by striking ''not''; and

(ii) by striking ''unless'' and inserting ''if'';

(2) in subsection (b)—

(A) in paragraph (3), by inserting ''clause (i) through (vii), (viii) (without regard to the amendment made by section 2004(c)(2) of Public Law 111–148), (x), or (xi) of'' after ''described in''; and

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

(3) in subsection (c)—

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

(B) by redesignating paragraphs (5) through (8) as paragraphs (3) through (6), respectively; and

(C) in paragraph (4) (as redesignated by subparagraph (B)), by striking ''Subject to subparagraphs (D) and (E)'' and inserting ''Subject to subparagraph (D)''; and

(4) in subsection (d)—

(A) in paragraph (2), by striking subparagraph (E); and

(B) in paragraph (3)—

(i) in subparagraph (A)(ii), by striking ''Subject to subparagraph (B)(ii), in'' and inserting ''In''; and

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

''(B) MAINTENANCE OF HEALTH OPPORTUNITY ACCOUNT AFTER BECOMING INELIGIBLE FOR PUBLIC BENEFIT.—Notwithstanding any other provision of law, if an account holder of a health opportunity account becomes ineligible for benefits under this title because of an increase in income or assets—

"(i) no additional contribution shall be made into the account under paragraph (2)(A)(i); and

"(ii) the account shall remain available to the account holder for 3 years after the date on which the individual becomes ineligible for such benefits for withdrawals under the same terms and conditions as if the account holder remained eligible for such benefits, and such withdrawals shall be treated as medical assistance in accordance with subsection (c)(4).".

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

SEC. 114. MEMBERS OF HEALTH CARE SHARING MINISTRIES ELIGIBLE TO ESTABLISH HEALTH SAVINGS ACCOUNTS.

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

"(i) APPLICATION TO HEALTH CARE SHARING MINISTRIES.—For purposes of this section, membership in a health care sharing ministry (as defined in section 5000A(d)(2)(B)(ii)) shall be treated as coverage under a high deductible health plan.".

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

SEC. 115. HIGH DEDUCTIBLE HEALTH PLANS RENAMED HSA QUALIFIED PLANS.

(a) IN GENERAL.—Section 223, as amended by this Act, is amended by striking ''high deductible health plan'' each place it appears and inserting ''HSA qualified health plan''.

(b) CONFORMING AMENDMENTS.—

(1) Section 106(e), as amended by this Act, is amended by striking ''high deductible health plan'' each place it appears and inserting ''HSA qualified health plan''.

(2) The heading for paragraph (2) of section 223(c) is amended by striking ''HIGH DEDUCTIBLE HEALTH PLAN'' and inserting ''HSA QUALIFIED HEALTH PLAN''.

(3) Section 408(d)(9) is amended—

(A) by striking ''high deductible health plan'' each place it appears in subparagraph (C) and inserting ''HSA qualified health plan'', and

(B) by striking ''HIGH DEDUCTIBLE HEALTH PLAN'' in the heading of subparagraph

(D) and inserting "HSA QUALIFIED HEALTH PLAN".

SEC. 116. TREATMENT OF DIRECT PRIMARY CARE SERVICE ARRANGEMENTS.

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

"(6) TREATMENT OF DIRECT PRIMARY CARE SERVICE ARRANGEMENTS.—An arrangement under which an individual is provided coverage restricted to primary care services in exchange for a fixed periodic fee—

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

"(B) shall not be treated as insurance for purposes of subsection (d)(2)(B).".

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

SEC. 117. HIGH DEDUCTIBLE HEALTH PLANS WITH HSAS TREATED AS QUALIFIED HEALTH PLANS.

Section 1301 of the Patient Protection and Affordable Care Act is amended by adding at the end the following new subsection:

"(e) HIGH DEDUCTIBLE HEALTH PLAN WITH HEALTH SAVINGS ACCOUNT.—A health plan not pro-

viding a bronze, silver, gold, or platinum level of coverage shall be treated as meeting the requirements of subsection (d) with respect to any plan year for any enrollee if the plan meets the requirements for a high deductible health plan under section 223(c)(2) of the Internal Revenue Code of 1986 and such enrollee has established a health savings account (as defined in section 223(d)(1) of such Code) in relation to such plan.''.

SEC. 118. CERTAIN STAND-ALONE HRAS NOT SUBJECT TO PROHIBITION ON ANNUAL LIMITS.

Section 2711(a) of the Public Health Service Act (42 U.S.C. 300gg–11(a)) is amended by adding at the end the following new paragraph:

''(3) EXCEPTION FOR HEALTH REIMBURSEMENT ARRANGEMENTS.—Paragraph (1)(A) shall not apply to any health reimbursement arrangement which permits the purchase of a qualified health plan through an Exchange established under section 1311 of the Patient Protection and Affordable Care Act.''.

TITLE II—OTHER PROVISIONS

SEC. 201. CERTAIN EXERCISE EQUIPMENT AND PHYSICAL FITNESS PROGRAMS TREATED AS MEDICAL CARE.

(a) IN GENERAL.—Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(12) EXERCISE EQUIPMENT AND PHYSICAL FITNESS PROGRAMS.—

"(A) IN GENERAL.—The term 'medical care' shall include amounts paid—

"(i) to purchase or use equipment used in a program (including a self-directed program) of physical exercise,

"(ii) to participate, or receive instruction, in a program of physical exercise, and

"(iii) for membership dues in a fitness club the primary purpose of which is to provide access to equipment and facilities for physical exercise.

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

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

SEC. 202. CERTAIN NUTRITIONAL AND DIETARY SUPPLEMENTS TO BE TREATED AS MEDICAL CARE.

(a) IN GENERAL.—Subsection (d) of section 213, as amended by section 201, is amended by adding at the end the following new paragraph:

"(13) NUTRITIONAL AND DIETARY SUPPLEMENTS.—

"(A) IN GENERAL.—The term 'medical care' shall include amounts paid to purchase herbs, vitamins, minerals, homeopathic remedies, meal replacement products, and other dietary and nutritional supplements.

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

"(C) MEAL REPLACEMENT PRODUCT.—For purposes of this paragraph, the term 'meal replacement product' means any product that—

"(i) is permitted to bear labeling making a claim described in section 403(r)(3)

of the Federal Food, Drug, and Cosmetic Act, and

"(ii) is permitted to claim under such section that such product is low in fat and is a good source of protein, fiber, and multiple essential vitamins and minerals.".

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

SEC. 203. CERTAIN PROVIDER FEES TO BE TREATED AS MEDICAL CARE.

(a) IN GENERAL.—Subsection (d) of section 213, as amended by sections 201 and 202, is amended by adding at the end the following new paragraph:

"(14) PERIODIC PROVIDER FEES.—The term 'medical care' shall include periodic fees paid to a primary care physician for the right to receive medical services on an as-needed basis.".

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

1 **SEC. 204. REPEAL OF ANNUAL LIMITATIONS ON**
2 **DEDUCTIBLES FOR EMPLOYER-SPONSORED**
3 **PLANS OFFERED IN SMALL GROUP MARKET.**

4 Section 1302(c)(2) of the Patient Protection and Af-
5 fordable Care Act (Public Law 111–148) is repealed.

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