

113TH CONGRESS
1ST SESSION

S. 1031

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 SENATE OF THE UNITED STATES

MAY 23, 2013

Mr. HATCH (for himself, Mr. RUBIO, Mr. BARRASSO, and Mr. INHOFE) 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 improve access to health care through expanded 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, ETC.**

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

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

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

3 (c) TABLE OF CONTENTS.—The table of contents is
 4 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 dis-
 ability.

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 medi-
 cines and drugs.

Sec. 108. Purchase of health insurance from HSA account.

Sec. 109. Special rule for certain medical expenses incurred before establish-
 ment of account.

Sec. 110. Preventive care prescription drug clarification.

Sec. 111. Equivalent bankruptcy protections for health savings accounts as re-
 tirement 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. 121. Certain exercise equipment and physical fitness programs treated as
 medical care.

Sec. 122. Certain nutritional and dietary supplements to be treated as medical
 care.

Sec. 123. Certain provider fees to be treated as medical care.

Sec. 124. Repeal of annual limitations on deductibles for employer-sponsored
 plans offered in small group market.

1 **TITLE I—PROVISIONS RELATING**
 2 **TO TAX-PREFERRED HEALTH**
 3 **ACCOUNTS**

4 **SEC. 101. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**
 5 **TRIBUTIONS TO THE SAME HSA ACCOUNT.**

6 (a) IN GENERAL.—Paragraph (3) of section 223(b)
 7 is amended by adding at the end the following new sub-
 8 paragraph:

9 “(C) SPECIAL RULE WHERE BOTH
 10 SPOUSES ARE ELIGIBLE INDIVIDUALS WITH 1
 11 ACCOUNT.—If—

12 “(i) an individual and the individual’s
 13 spouse have both attained age 55 before
 14 the close of the taxable year, and

15 “(ii) the spouse is not an account ben-
 16 eficiary of a health savings account as of
 17 the close of such year,

18 the additional contribution amount shall be 200
 19 percent of the amount otherwise determined
 20 under subparagraph (B).”.

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

1 **SEC. 102. PROVISIONS RELATING TO MEDICARE.**

2 (a) INDIVIDUALS OVER AGE 65 ONLY ENROLLED IN
3 MEDICARE PART A.—Paragraph (7) of section 223(b) is
4 amended by adding at the end the following: “This para-
5 graph shall not apply to any individual during any period
6 for which the individual’s only entitlement to such benefits
7 is an entitlement to hospital insurance benefits under part
8 A of title XVIII of such Act pursuant to an enrollment
9 for such hospital insurance benefits under section
10 226(a)(1) of such Act.”.

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

14 (1) IN GENERAL.—Subsection (b) of section
15 138 is amended by striking paragraph (2) and by re-
16 designating paragraphs (3) and (4) as paragraphs
17 (2) and (3), respectively.

18 (2) CONFORMING AMENDMENT.—Paragraph (4)
19 of section 138(e) is amended by striking “and para-
20 graph (2)”.

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

1 **SEC. 103. INDIVIDUALS ELIGIBLE FOR VETERANS BENE-**
 2 **FITS FOR A SERVICE-CONNECTED DIS-**
 3 **ABILITY.**

4 (a) IN GENERAL.—Paragraph (1) of section 223(c)
 5 is amended by adding at the end the following new sub-
 6 paragraph:

7 “(C) SPECIAL RULE FOR INDIVIDUALS ELI-
 8 GIBLE FOR CERTAIN VETERANS BENEFITS.—
 9 For purposes of subparagraph (A)(ii), an indi-
 10 vidual shall not be treated as covered under a
 11 health plan described in such subparagraph
 12 merely because the individual receives periodic
 13 hospital care or medical services for a service-
 14 connected disability under any law administered
 15 by the Secretary of Veterans Affairs but only if
 16 the individual is not eligible to receive such care
 17 or services for any condition other than a serv-
 18 ice-connected disability.”.

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

22 **SEC. 104. INDIVIDUALS ELIGIBLE FOR INDIAN HEALTH**
 23 **SERVICE ASSISTANCE.**

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

1 “(D) SPECIAL RULE FOR INDIVIDUALS EL-
2 IGIBLE FOR ASSISTANCE UNDER INDIAN
3 HEALTH SERVICE PROGRAMS.—For purposes of
4 subparagraph (A)(ii), an individual shall not be
5 treated as covered under a health plan de-
6 scribed in such subparagraph merely because
7 the individual receives hospital care or medical
8 services under a medical care program of the
9 Indian Health Service or of a tribal organiza-
10 tion.”.

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

14 **SEC. 105. INDIVIDUALS ELIGIBLE FOR TRICARE COVERAGE.**

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

18 “(E) SPECIAL RULE FOR INDIVIDUALS EL-
19 IGIBLE FOR ASSISTANCE UNDER TRICARE.—For
20 purposes of subparagraph (A)(ii), an individual
21 shall not be treated as covered under a health
22 plan described in such subparagraph merely be-
23 cause the individual is eligible to receive hos-
24 pital care, medical services, or prescription
25 drugs under TRICARE Extra or TRICARE

1 Standard and such individual is not enrolled in
2 TRICARE Prime.”.

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

6 **SEC. 106. FSA AND HRA INTERACTION WITH HSAS.**

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

10 (1) by striking “and” at the end of clause (ii),

11 (2) by striking the period at the end of clause

12 (iii) and inserting “, and”, and

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

15 “(iv) coverage under a health flexible
16 spending arrangement or a health reim-
17 bursement arrangement in the plan year a
18 qualified HSA distribution as described in
19 section 106(e) is made on behalf of the in-
20 dividual if after the qualified HSA dis-
21 tribution is made and for the remaining
22 duration of the plan year, the coverage
23 provided under the health flexible spending
24 arrangement or health reimbursement ar-
25 rangement is converted to—

1 “(I) coverage that does not pay
2 or reimburse any medical expense in-
3 curred before the minimum annual de-
4 ductible under paragraph (2)(A)(i)
5 (prorated for the period occurring
6 after the qualified HSA distribution is
7 made) is satisfied,

8 “(II) coverage that, after the
9 qualified HSA distribution is made,
10 does not pay or reimburse any med-
11 ical expense incurred after the quali-
12 fied HSA distribution is made other
13 than preventive care as defined in
14 paragraph (2)(C),

15 “(III) coverage that, after the
16 qualified HSA distribution is made,
17 pays or reimburses benefits for cov-
18 erage described in clause (ii) (but not
19 through insurance or for long-term
20 care services),

21 “(IV) coverage that, after the
22 qualified HSA distribution is made,
23 pays or reimburses benefits for per-
24 mitted insurance or coverage de-

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

3 “(V) coverage that, after the
4 qualified HSA distribution is made,
5 pays or reimburses only those medical
6 expenses incurred after an individual’s
7 retirement (and no expenses incurred
8 before retirement), or

9 “(VI) coverage that, after the
10 qualified HSA distribution is made, is
11 suspended, pursuant to an election
12 made on or before the date the indi-
13 vidual elects a qualified HSA distribu-
14 tion or, if later, on the date of the in-
15 dividual enrolls in a high deductible
16 health plan, that does not pay or re-
17 imburse, at any time, any medical ex-
18 pense incurred during the suspension
19 period except as defined in the pre-
20 ceding subclauses of this clause.”.

21 (b) QUALIFIED HSA DISTRIBUTION SHALL NOT AF-
22 FECT FLEXIBLE SPENDING ARRANGEMENT.—Paragraph
23 (1) of section 106(e) is amended to read as follows:

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

1 under this section, section 105, or section 125, or as
 2 a health reimbursement arrangement under this sec-
 3 tion or section 105, merely because such plan pro-
 4 vides for a qualified HSA distribution.”.

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

8 “(E) EXCEPTION FOR QUALIFIED HSA DIS-
 9 TRIBUTIONS.—Subparagraph (A) shall not
 10 apply to the extent that there is an amount re-
 11 maining in a health flexible spending account at
 12 the end of a plan year that an individual elects
 13 to contribute to a health savings account pursu-
 14 ant to a qualified HSA distribution (as defined
 15 in section 106(e)(2)).”.

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

19 “(2) QUALIFIED HSA DISTRIBUTION.—

20 “(A) IN GENERAL.—The term ‘qualified
 21 HSA distribution’ means a distribution from a
 22 health flexible spending arrangement or health
 23 reimbursement arrangement to the extent that
 24 such distribution does not exceed the lesser
 25 of—

1 “(i) the balance in such arrangement
2 as of the date of such distribution, or

3 “(ii) the amount determined under
4 subparagraph (B).

5 Such term shall not include more than 1 dis-
6 tribution with respect to any arrangement.

7 “(B) DOLLAR LIMITATIONS.—

8 “(i) DISTRIBUTIONS FROM A HEALTH
9 FLEXIBLE SPENDING ARRANGEMENT.—A
10 qualified HSA distribution from a health
11 flexible spending arrangement shall not ex-
12 ceed the applicable amount.

13 “(ii) DISTRIBUTIONS FROM A HEALTH
14 REIMBURSEMENT ARRANGEMENT.—A
15 qualified HSA distribution from a health
16 reimbursement arrangement shall not ex-
17 ceed—

18 “(I) the applicable amount di-
19 vided by 12, multiplied by

20 “(II) the number of months dur-
21 ing which the individual is a partici-
22 pant in the health reimbursement ar-
23 rangement.

1 “(iii) APPLICABLE AMOUNT.—For
2 purposes of this subparagraph, the applica-
3 ble amount is—

4 “(I) \$2,250 in the case of an eli-
5 gible individual who has self-only cov-
6 erage under a high deductible health
7 plan at the time of such distribution,
8 and

9 “(II) \$4,500 in the case of an eli-
10 gible individual who has family cov-
11 erage under a high deductible health
12 plan at the time of such distribu-
13 tion.”.

14 (e) ELIMINATION OF ADDITIONAL TAX FOR FAILURE
15 TO MAINTAIN HIGH DEDUCTIBLE HEALTH PLAN COV-
16 ERAGE.—Subsection (e) of section 106 is amended—

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

20 (2) by striking subparagraph (A) of paragraph
21 (3), as so redesignated, and redesignating subpara-
22 graphs (B) and (C) of such paragraph as subpara-
23 graphs (A) and (B) thereof, respectively.

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

1 amended by adding at the end the following new para-
2 graph:

3 “(5) LIMITED PURPOSE FSAS AND HRAS.—A
4 plan shall not fail to be a health flexible spending
5 arrangement or health reimbursement arrangement
6 under this section or section 105 merely because the
7 plan converts coverage for individuals who enroll in
8 a high deductible health plan described in section
9 223(c)(2) to coverage described in section
10 223(c)(1)(B)(iv). Coverage for such individuals may
11 be converted as of the date of enrollment in the high
12 deductible health plan, without regard to the period
13 of coverage under the health flexible spending ar-
14 rangement or health reimbursement arrangement,
15 and without requiring any change in coverage to in-
16 dividuals who do not enroll in a high deductible
17 health plan.”.

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

22 “(6) COST-OF-LIVING ADJUSTMENT.—

23 “(A) IN GENERAL.—In the case of any
24 taxable year beginning in a calendar year after
25 2013, each of the dollar amounts in paragraph

1 (2)(B)(iii) shall be increased by an amount
2 equal to such dollar amount, multiplied by the
3 cost-of-living adjustment determined under sec-
4 tion 1(f)(3) for the calendar year in which such
5 taxable year begins by substituting ‘calendar
6 year 2012’ for ‘calendar year 1992’ in subpara-
7 graph (B) thereof.

8 “(B) ROUNDING.—If any increase under
9 paragraph (1) is not a multiple of \$50, such in-
10 crease shall be rounded to the nearest multiple
11 of \$50.”.

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

15 (1) by striking “and” at the end of clause (iii),

16 (2) by striking the period at the end of clause
17 (iv) and inserting “, and”, and

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

20 “(v) any coverage (including prospec-
21 tive coverage) under a health plan that is
22 not a high deductible health plan which is
23 disclaimed in writing, at the time of the
24 creation or organization of the health sav-
25 ings account, including by execution of a

1 trust described in subsection (d)(1)
 2 through a governing instrument that in-
 3 cludes such a disclaimer, or by acceptance
 4 of an amendment to such a trust that in-
 5 cludes such a disclaimer.”.

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

9 **SEC. 107. ALLOWANCE OF DISTRIBUTIONS FOR PRESCRIP-**
 10 **TION AND OVER-THE-COUNTER MEDICINES**
 11 **AND DRUGS.**

12 (a) HSAS.—Section 223(d)(2)(A) is amended by
 13 striking the last sentence thereof and inserting the fol-
 14 lowing: “Such term shall include an amount paid for any
 15 prescription or over-the-counter medicine or drug.”.

16 (b) ARCHER MSAS.—Section 220(d)(2)(A) is amend-
 17 ed by striking the last sentence thereof and inserting the
 18 following: “Such term shall include an amount paid for
 19 any prescription or over-the-counter medicine or drug.”.

20 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
 21 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sub-
 22 section (f) of section 106 is amended to read as follows:

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

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

3 (d) EFFECTIVE DATE.—

4 (1) DISTRIBUTIONS FROM SAVINGS AC-
5 COUNTS.—The amendments made by subsections (a)
6 and (b) shall apply to amounts paid with respect to
7 taxable years beginning after December 31, 2012.

8 (2) REIMBURSEMENTS.—The amendment made
9 by subsection (c) shall apply to expenses incurred
10 with respect to taxable years beginning after Decem-
11 ber 31, 2012.

12 **SEC. 108. PURCHASE OF HEALTH INSURANCE FROM HSA**
13 **ACCOUNT.**

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

16 “(2) QUALIFIED MEDICAL EXPENSES.—

17 “(A) IN GENERAL.—The term ‘qualified
18 medical expenses’ means, with respect to an ac-
19 count beneficiary, amounts paid by such bene-
20 ficiary for medical care (as defined in section
21 213(d)) for any individual covered by a high de-
22 ductible health plan of the account beneficiary,
23 but only to the extent such amounts are not
24 compensated for by insurance or otherwise.

1 “(B) HEALTH INSURANCE MAY NOT BE
2 PURCHASED FROM ACCOUNT.—Except as pro-
3 vided in subparagraph (C), subparagraph (A)
4 shall not apply to any payment for insurance.

5 “(C) EXCEPTIONS.—Subparagraph (B)
6 shall not apply to any expense for coverage
7 under—

8 “(i) a health plan during any period
9 of continuation coverage required under
10 any Federal law,

11 “(ii) a qualified long-term care insur-
12 ance contract (as defined in section
13 7702B(b)),

14 “(iii) a health plan during any period
15 in which the individual is receiving unem-
16 ployment compensation under any Federal
17 or State law,

18 “(iv) a high deductible health plan, or

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

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

1 chased after the date of the enactment of this Act in tax-
 2 able years beginning after such date.

3 **SEC. 109. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**
 4 **INCURRED BEFORE ESTABLISHMENT OF AC-**
 5 **COUNT.**

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

9 “(D) CERTAIN MEDICAL EXPENSES IN-
 10 CURRED BEFORE ESTABLISHMENT OF ACCOUNT
 11 TREATED AS QUALIFIED.—An expense shall not
 12 fail to be treated as a qualified medical expense
 13 solely because such expense was incurred before
 14 the establishment of the health savings account
 15 if such expense was incurred—

16 “(i) during either—

17 “(I) the taxable year in which the
 18 health savings account was estab-
 19 lished, or

20 “(II) the preceding taxable year
 21 in the case of a health savings ac-
 22 count established after the taxable
 23 year in which such expense was in-
 24 curred but before the time prescribed
 25 by law for filing the return for such

1 taxable year (not including extensions
2 thereof), and

3 “(ii) for medical care of an individual
4 during a period that such individual was
5 covered by a high deductible health plan
6 and met the requirements of subsection
7 (c)(1)(A)(ii) (after application of sub-
8 section (c)(1)(B)).”.

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

12 **SEC. 110. PREVENTIVE CARE PRESCRIPTION DRUG CLARI-**
13 **FICATION.**

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

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

1 **SEC. 111. EQUIVALENT BANKRUPTCY PROTECTIONS FOR**
2 **HEALTH SAVINGS ACCOUNTS AS RETIRE-**
3 **MENT FUNDS.**

4 (a) IN GENERAL.—Section 522 of title 11, United
5 States Code, is amended by adding at the end the fol-
6 lowing new subsection:

7 “(r) TREATMENT OF HEALTH SAVINGS AC-
8 COUNTS.—For purposes of this section, any health savings
9 account (as described in section 223 of the Internal Rev-
10 enue Code of 1986) shall be treated in the same manner
11 as an individual retirement account described in section
12 408 of such Code.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to cases commencing under title
15 11, United States Code, after the date of the enactment
16 of this Act.

17 **SEC. 112. ADMINISTRATIVE ERROR CORRECTION BEFORE**
18 **DUE DATE OF RETURN.**

19 (a) IN GENERAL.—Paragraph (4) of section 223(f)
20 is amended by adding at the end the following new sub-
21 paragraph:

22 “(D) EXCEPTION FOR ADMINISTRATIVE
23 ERRORS CORRECTED BEFORE DUE DATE OF RE-
24 TURN.—Subparagraph (A) shall not apply if
25 any payment or distribution is made to correct

1 an administrative, clerical or payroll contribu-
 2 tion error and if—

3 “(i) such distribution is received by
 4 the individual on or before the last day
 5 prescribed by law (including extensions of
 6 time) for filing such individual’s return for
 7 such taxable year, and

8 “(ii) such distribution is accompanied
 9 by the amount of net income attributable
 10 to such contribution.

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

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

17 **SEC. 113. REAUTHORIZATION OF MEDICAID HEALTH OP-**
 18 **PORTUNITY ACCOUNTS.**

19 (a) IN GENERAL.—Section 1938 of the Social Secu-
 20 rity Act (42 U.S.C. 1396u–8) is amended—

21 (1) in subsection (a)—

22 (A) by striking paragraph (2) and insert-
 23 ing the following:

24 “(2) INITIAL DEMONSTRATION.—The dem-
 25 onstration program under this section shall begin on

1 January 1, 2007. The Secretary shall approve States
2 to conduct demonstration programs under this sec-
3 tion for a 5-year period, with each State demonstra-
4 tion program covering one or more geographic areas
5 specified by the State. With respect to a State, after
6 the initial 5-year period of any demonstration pro-
7 gram conducted under this section by the State, un-
8 less the Secretary finds, taking into account cost-ef-
9 fectiveness and quality of care, that the State dem-
10 onstration program has been unsuccessful, the dem-
11 onstration program may be extended or made per-
12 manent in the State.”; and

13 (B) in paragraph (3), in the matter pre-
14 ceding subparagraph (A)—

15 (i) by striking “not”; and

16 (ii) by striking “unless” and inserting
17 “if”;

18 (2) in subsection (b)—

19 (A) in paragraph (3), by inserting “clause
20 (i) through (vii), (viii) (without regard to the
21 amendment made by section 2004(c)(2) of Pub-
22 lic Law 111–148), (x), or (xi) of” after “de-
23 scribed in”; and

24 (B) by striking paragraphs (4), (5), and
25 (6);

1 (3) in subsection (c)—

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

3 (B) by redesignating paragraphs (5)
4 through (8) as paragraphs (3) through (6), re-
5 spectively; and

6 (C) in paragraph (4) (as redesignated by
7 subparagraph (B)), by striking “Subject to sub-
8 paragraphs (D) and (E)” and inserting “Sub-
9 ject to subparagraph (D)”; and

10 (4) in subsection (d)—

11 (A) in paragraph (2), by striking subpara-
12 graph (E); and

13 (B) in paragraph (3)—

14 (i) in subparagraph (A)(ii), by strik-
15 ing “Subject to subparagraph (B)(ii), in”
16 and inserting “In”; and

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

19 “(B) MAINTENANCE OF HEALTH OPPOR-
20 TUNITY ACCOUNT AFTER BECOMING INELI-
21 GIBLE FOR PUBLIC BENEFIT.—Notwithstanding
22 any other provision of law, if an account holder
23 of a health opportunity account becomes ineli-
24 gible for benefits under this title because of an
25 increase in income or assets—

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

4 **SEC. 115. HIGH DEDUCTIBLE HEALTH PLANS RENAMED**
5 **HSA QUALIFIED PLANS.**

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

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 106(e), as amended by this Act, is
12 amended by striking “high deductible health plan”
13 each place it appears and inserting “HSA qualified
14 health plan”.

15 (2) The heading for paragraph (2) of section
16 223(c) is amended by striking “HIGH DEDUCTIBLE
17 HEALTH PLAN” and inserting “HSA QUALIFIED
18 HEALTH PLAN”.

19 (3) Section 408(d)(9) is amended—

20 (A) by striking “high deductible health
21 plan” each place it appears in subparagraph
22 (C) and inserting “HSA qualified health plan”,
23 and

24 (B) by striking “HIGH DEDUCTIBLE
25 HEALTH PLAN” in the heading of subparagraph

1 (D) and inserting “HSA QUALIFIED HEALTH
2 PLAN”.

3 **SEC. 116. TREATMENT OF DIRECT PRIMARY CARE SERVICE**
4 **ARRANGEMENTS.**

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

7 “(6) TREATMENT OF DIRECT PRIMARY CARE
8 SERVICE ARRANGEMENTS.—An arrangement under
9 which an individual is provided coverage restricted to
10 primary care services in exchange for a fixed peri-
11 odic fee—

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

14 “(B) shall not be treated as insurance for
15 purposes of subsection (d)(2)(B).”.

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

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

21 Section 1301 of the Patient Protection and Afford-
22 able Care Act is amended by adding at the end the fol-
23 lowing new subsection:

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

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

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

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

14 “(3) EXCEPTION FOR HEALTH REIMBURSE-
15 MENT ARRANGEMENTS.—Paragraph (1)(A) shall not
16 apply to any health reimbursement arrangement
17 which permits the purchase of a qualified health
18 plan through an Exchange established under section
19 1311 of the Patient Protection and Affordable Care
20 Act.”.

1 **TITLE II—OTHER PROVISIONS**

2 **SEC. 201. CERTAIN EXERCISE EQUIPMENT AND PHYSICAL**
3 **FITNESS PROGRAMS TREATED AS MEDICAL**
4 **CARE.**

5 (a) IN GENERAL.—Subsection (d) of section 213 is
6 amended by adding at the end the following new para-
7 graph:

8 “(12) EXERCISE EQUIPMENT AND PHYSICAL
9 FITNESS PROGRAMS.—

10 “(A) IN GENERAL.—The term ‘medical
11 care’ shall include amounts paid—

12 “(i) to purchase or use equipment
13 used in a program (including a self-di-
14 rected program) of physical exercise,

15 “(ii) to participate, or receive instruc-
16 tion, in a program of physical exercise, and

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

21 “(B) LIMITATION.—Amounts treated as
22 medical care under subparagraph (A) shall not
23 exceed \$1,000 with respect to any individual for
24 any taxable year.”.

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

4 **SEC. 202. CERTAIN NUTRITIONAL AND DIETARY SUPPLE-**
 5 **MENTS TO BE TREATED AS MEDICAL CARE.**

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

9 “(13) NUTRITIONAL AND DIETARY SUPPLE-
 10 MENTS.—

11 “(A) IN GENERAL.—The term ‘medical
 12 care’ shall include amounts paid to purchase
 13 herbs, vitamins, minerals, homeopathic rem-
 14 edies, meal replacement products, and other di-
 15 etary and nutritional supplements.

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

20 “(C) MEAL REPLACEMENT PRODUCT.—
 21 For purposes of this paragraph, the term ‘meal
 22 replacement product’ means any product that—

23 “(i) is permitted to bear labeling mak-
 24 ing a claim described in section 403(r)(3)

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

3 “(ii) is permitted to claim under such
4 section that such product is low in fat and
5 is a good source of protein, fiber, and mul-
6 tiple essential vitamins and minerals.”.

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

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

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

15 “(14) PERIODIC PROVIDER FEES.—The term
16 ‘medical care’ shall include periodic fees paid to a
17 primary care physician for the right to receive med-
18 ical services on an as-needed basis.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to taxable years beginning after
21 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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