S. 403

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

FEBRUARY 15, 2017

Mr. HATCH (for himself and Mr. RUBIO) 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 “Health Savings Act of 2017”.

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
shall be considered to be made to a section or other provi-

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

Sec. 1. Short title, etc.

TITLE I—RENAMEING HIGH DEDUCTIBLE HEALTH PLANS

Sec. 101. High deductible health plans renamed HSA-qualified health plans.

TITLE II—ENHANCING ACCESS TO TAX-PREFERRED HEALTH ACCOUNTS

Sec. 201. Allow both spouses to make catch-up contributions to the same HSA account.
Sec. 203. Individuals eligible for Indian Health Service assistance.
Sec. 204. Members of health care sharing ministries eligible to establish health savings accounts.
Sec. 205. Treatment of direct primary care service arrangements.
Sec. 206. Individuals eligible for on-site medical clinic coverage.
Sec. 207. Treatment of embedded deductibles.

TITLE III—IMPROVING COVERAGE UNDER TAX-PREFERRED HEALTH ACCOUNTS

Sec. 301. Allowance of distributions for prescription and over-the-counter medicines and drugs.
Sec. 302. Purchase of health insurance from HSA account.
Sec. 303. Special rule for certain medical expenses incurred before establishment of account.
Sec. 304. Preventive care prescription drug clarification.

TITLE IV—MISCELLANEOUS PROVISIONS RELATING TO TAX-PREFERRED HEALTH ACCOUNTS

Sec. 401. FSA and HRA interaction with HSAs.
Sec. 402. Equivalent bankruptcy protections for health savings accounts as retirement funds.
Sec. 403. Administrative error correction before due date of return.
Sec. 404. Reauthorization of Medicaid health opportunity accounts.
Sec. 405. Maximum contribution limit to health savings account increased to amount of deductible and out-of-pocket limitation.

TITLE V—OTHER PROVISIONS

Sec. 501. Certain exercise equipment and physical fitness programs treated as medical care.
Sec. 502. Certain nutritional and dietary supplements to be treated as medical care.
Sec. 503. Certain provider fees to be treated as medical care.
TITLE I—RENAMING HIGH DEDUCTIBLE HEALTH PLANS

SEC. 101. HIGH DEDUCTIBLE HEALTH PLANS RENAMED HSA-QUALIFIED HEALTH PLANS.

(a) In General.—Section 223 is amended by striking “high deductible health plan” each place it appears and inserting “HSA-qualified health plan”.

(b) Conforming Amendments.—

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

(2) 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”.
TITLE II—ENHANCING ACCESS TO TAX-PREFERRED HEALTH ACCOUNTS

SEC. 201. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CONTRIBUTIONS TO THE SAME HSA ACCOUNT.

(a) IN GENERAL.—Paragraph (5) of section 223(b) is amended to read as follows:

“(5) SPECIAL RULE FOR MARRIED INDIVIDUALS WITH FAMILY COVERAGE.—

“(A) IN GENERAL.—In the case of individuals who are married to each other, if both spouses are eligible individuals and either spouse has family coverage under an HSA-qualified health plan as of the first day of any month—

“(i) the limitation under paragraph (1) shall be applied by not taking into account any other HSA-qualified health plan coverage of either spouse (and if such spouses both have family coverage under separate HSA-qualified health plans, only one such coverage shall be taken into account),

“(ii) such limitation (after application of clause (i)) shall be reduced by the ag-
aggregate amount paid to Archer MSAs of such spouses for the taxable year, and

“(iii) such limitation (after application of clauses (i) and (ii)) shall be divided equally between such spouses unless they agree on a different division.

“(B) Treatment of additional contribution amounts.—If both spouses referred to in subparagraph (A) have attained age 55 before the close of the taxable year, the limitation referred to in subparagraph (A)(iii) which is subject to division between the spouses shall include the additional contribution amounts determined under paragraph (3) for both spouses. In any other case, any additional contribution amount determined under paragraph (3) shall not be taken into account under subparagraph (A)(iii) and shall not be subject to division between the spouses.”.

(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. 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) 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(e) 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. 203. INDIVIDUALS ELIGIBLE FOR INDIAN HEALTH SERVICE ASSISTANCE.

(a) In general.—Paragraph (1) of section 223(c) is amended by adding at the end the following new sub-paragraph:
“(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. 204. 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 an HSA-qualified 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. 205. TREATMENT OF DIRECT PRIMARY CARE SERVICE ARRANGEMENTS.**

(a) **In General.**—Section 223(c) is amended by adding at the end the following new paragraph:

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“(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 or payment for primary care services—

“(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).”.
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(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. 206. INDIVIDUALS ELIGIBLE FOR ON-SITE MEDICAL CLINIC COVERAGE.**

(a) **In General.**—Paragraph (1) of section 223(c), as amended by sections 203, is amended by adding at the end the following new subparagraph:
“(E) Special rule for individuals eligible for on-site medical clinic coverage.—

“(i) In general.—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 health care benefits from an onsite-medical clinic of employer of the individual or the individual’s spouse if such health care benefits are not significant benefits.

“(ii) Included benefits.—For purposes of clause (i), the following health care benefits shall be considered to be benefits which are not significant benefits:

“(I) Physicals and immunizations.

“(II) Injecting antigens provided by employees.

“(III) Medications available without a prescription, such as pain relievers and antihistamines.

“(IV) Treatment for injuries occurring at the employer’s place of em-
ployment or otherwise in the course of employment.

“(V) Tests for infectious diseases and conditions, such as streptococcal sore throat.

“(VI) Monitoring of chronic conditions, such as diabetes.

“(VII) Drug testing.

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

“(IX) Other services and treatments of a similar nature to the services described in subclauses (I) through (VIII).

“(iii) AGGREGATION RULES.—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 amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.
SEC. 207. TREATMENT OF EMBEDDED DEDUCTIBLES.

(a) In General.—Paragraph (2) of section 223(c) is amended by adding at the end the following new subparagraph:

“(E) TREATMENT OF EMBEDDED DEDUCTIBLE.—A health plan providing family coverage that has an annual deductible for all covered individuals under the plan of at least the amount described in subparagraph (A)(i)(II) shall not fail to be treated as an HSA-qualified health plan solely because it covers expenses with respect to an individual under that plan that exceed an embedded deductible which is equal to or in excess of the amount described in subparagraph (A)(i)(I).”.

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

TITLE III—IMPROVING COVERAGE UNDER TAX-PREFERRED HEALTH ACCOUNTS

SEC. 301. 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 fol-
lowing: “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 Dates.—

(1) Distributions from savings accounts.—The amendments made by subsections (a) and (b) shall apply to amounts paid in taxable years beginning after December 31, 2017.

(2) Reimbursements.—The amendment made by subsection (c) shall apply to expenses incurred in plan years beginning after December 31, 2017.
SEC. 302. PURCHASE OF HEALTH INSURANCE FROM HSA ACCOUNT.

(a) In General.—Paragraph (2) of section 223(d), as amended by section 301, is amended—

(1) by striking “and any dependent (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of such individual” in subparagraph (A) and inserting “any dependent (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of such individual, and any child (as defined in section 152(f)(1)) of such individual who has not attained the age of 27 before the end of such individual’s taxable year”,

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

“(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.”,

and

(3) by striking “or” at the end of subparagraph (C)(iii) and by striking subparagraph (C)(iv) and inserting the following:

“(iv) an HSA-qualified 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 amendments made by this section shall apply with respect to insurance purchased after the date of the enactment of this Act in taxable years beginning after such date.

SEC. 303. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT.

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

“(D) TREATMENT OF CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT.—If a health savings account is established during the 60-day period beginning on the date that coverage of the account beneficiary under an HSA-qualified health plan begins, then, solely for purposes of determining whether an amount paid is used for a qualified medical expense, such account shall be treated as having been established on the date that such coverage begins.”.
(b) **Effective Date.**—The amendment made by this section shall apply with respect to coverage beginning after the date of the enactment of this Act.

**SEC. 304. 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, 2017.

**TITLE IV—MISCELLANEOUS PROVISIONS RELATING TO TAX-PREFERRED HEALTH ACCOUNTS**

**SEC. 401. 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 arrangement is converted solely to one or more of the following:

“(I) POST-DEDUCTIBLE FSA OR HRA.—A health flexible spending arrangement or a health reimbursement arrangement 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) Preventative care.—A health flexible spending arrangement or a health reimbursement arrangement 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) Limited purpose health FSA.—A health flexible spending arrangement 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) Limited purpose HRA.—A health reimbursement arrangement that, after the qualified HSA distribution is made, pays or reimburses benefits for permitted insurance or coverage described in clause (ii) (but not for long-term care services).
“(V) Retirement HRA.—A health reimbursement arrangement 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).

“(VI) Suspended HRA.—A health reimbursement arrangement 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 an HSA-qualified health plan, that does not pay or reimburse, at any time, any medical expense incurred during the suspension period except as described 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) a health flexible spending arrangement under this section, section 105, or section 125,

“(B) a health reimbursement arrangement under this section or section 105, or

“(C) an accident or health plan,

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 directly to a health savings account of the employee 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 an HSA-qualified health plan at the time of such distribution, and

“(II) $4,500 in the case of an eligible individual who has family coverage under an HSA-qualified health plan at the time of such distribution.”.

(e) ELIMINATION OF ADDITIONAL TAX FOR FAILURE TO MAINTAIN HSA-QUALIFIED 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, a health reimbursement arrangement, or an accident or health plan under this section or section 105 merely because the plan converts coverage for individuals who enroll in an HSA-qualified health plan described in section 223(e)(2) to coverage described in subclause (I), (II), (III), (IV), (V), or (VI) of section 223(e)(1)(B)(iv). Coverage for such individuals may be converted as of the date of enrollment in the HSA-qualified 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 an HSA-qualified 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 2017, 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 2016’ 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(e)(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 an HSA-qualified 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. 402. 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 Rev-
(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. 403. 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. 404. 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 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 subparagraph (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. 405. MAXIMUM CONTRIBUTION LIMIT TO HEALTH SAVINGS ACCOUNT INCREASED TO AMOUNT OF DEDUCTIBLE AND OUT-OF-POCKET LIMITATION.

(a) Self-only Coverage.—Section 223(b)(2)(A) is amended by striking “$2,250” and inserting “the amount in effect under subsection (c)(2)(A)(ii)(I)”.

(b) Family Coverage.—Section 223(b)(2)(B) is amended by striking “$4,500” and inserting “the amount in effect under subsection (c)(2)(A)(ii)(II)”.

(c) Conforming Amendments.—Section 223(g)(1) is amended—

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

(2) by striking “determined by” in subparagraph (B) thereof and all that follows through “calendar year 2003’.” and inserting “determined by substituting ‘calendar year 2003’ for ‘calendar year 1992’ in subparagraph (B) thereof.”.
(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2017.

TITLE V—OTHER PROVISIONS

SEC. 501. 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 activity.—

“(A) In general.—The term ‘medical care’ shall include amounts paid—

“(i) for equipment for use in a program (including a self-directed program) of physical exercise or physical activity,

“(ii) to participate, or receive instruction, in a program of physical exercise, nutrition, or health coaching (including a self-directed program), and

“(iii) for membership at a fitness facility.

“(B) Overall dollar limitation.—
“(i) IN GENERAL.—Amounts treated as medical care under subparagraph (A) shall not exceed $1,000 with respect to any individual for any taxable year.

“(ii) EXCEPTION.—Clause (i) shall not apply for purposes of determining whether expenses reimbursed through a health flexible spending arrangement subject to section 125(i)(1) are incurred for medical care.

“(C) LIMITATIONS RELATED TO SPORTS AND FITNESS EQUIPMENT.—Amounts paid for equipment described in subparagraph (A)(i) shall be treated as medical care only—

“(i) if such equipment is utilized exclusively for participation in fitness, exercise, sport, or other physical activity programs,

“(ii) if such equipment is not apparel or footwear, and

“(iii) in the case of any item of sports equipment (other than exercise equipment), with respect to so much of the amount paid for such item as does not exceed $250.
“(D) **Fitness facility defined.**—For purposes of subparagraph (A)(iii), the term ‘fitness facility’ means a facility—

“(i) providing instruction in a program of physical exercise, offering facilities for the preservation, maintenance, encouragement, or development of physical fitness, or serving as the site of such a program of a State or local government,

“(ii) which is not a private club owned and operated by its members,

“(iii) which does not offer golf, hunting, sailing, or riding facilities,

“(iv) whose health or fitness facility is not incidental to its overall function and purpose, and

“(v) which is fully compliant with the State of jurisdiction and Federal anti-discrimination laws.”.

(b) **Limitation not to apply for certain purposes.**—

(1) **Health savings accounts.**—Subparagraph (A) of section 223(d)(2) is amended by inserting “, determined without regard to paragraph
(12)(B) thereof” after “medical care (as defined in section 213(d)”.

(2) ARCHER MSAS.—Subparagraph (A) of section 220(d)(2) is amended by inserting “, determined without regard to paragraph (12)(B) thereof” after “medical care (as defined in section 213(d)”.

(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. 502. CERTAIN NUTRITIONAL AND DIETARY SUPPLEMENTS TO BE TREATED AS MEDICAL CARE.

(a) IN GENERAL.—Subsection (d) of section 213, as amended by section 501, 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.

“(D) Exception.—Subparagraph (B) shall not apply for purposes of determining whether expenses reimbursed through a health flexible spending arrangement subject to section 125(i)(1) are incurred for medical care.’’.

(b) Limitation Not To Apply For Certain Purposes.—

(1) Health savings accounts.—Subparagraph (A) of section 223(d)(2), as amended by section 501, is amended by striking “paragraph (12)(B)” and inserting “paragraphs (12)(B) and (13)(B)”.

(2) Archer MSAs.—Subparagraph (A) of section 220(d)(2), as amended by section 501, is
amended by striking “paragraph (12)(B)” and inserting “paragraphs (12)(B) and (13)(B)”.

(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. 503. CERTAIN PROVIDER FEES TO BE TREATED AS MEDICAL CARE.

(a) IN GENERAL.—Subsection (d) of section 213, as amended by sections 501 and 502, is amended by adding at the end the following new paragraph:

“(14) PERIODIC PROVIDER FEES.—The term ‘medical care’ shall include—

“(A) periodic fees paid to a primary care physician for a defined set of medical services or the right to receive medical services on an as-needed basis, and

“(B) pre-paid primary care services designed to screen for, diagnose, cure, mitigate, treat, or prevent disease and promote wellness.”.

(b) EXCEPTION FOR FLEXIBLE SPENDING ACCOUNTS.—Section 125 is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:
“(k) Special Rule With Respect to Health Flexible Spending Arrangements.—For purposes of applying this with respect to any health flexible spending arrangement, amounts described in section 213(d)(14) shall not be considered insurance.”.

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