To amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees’ spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Mr. McDermott (for himself and Ms. Ros-Lehtinen) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees’ spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Tax Equity for Health Plan Beneficiaries Act of 2009”.
SEC. 2. APPLICATION OF ACCIDENT AND HEALTH PLANS TO ELIGIBLE BENEFICIARIES.

(a) Exclusion of Contributions.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following new subsection:

“(f) Coverage Provided for Eligible Beneficiaries of Employees.—

“(1) In general.—Subsection (a) shall apply with respect to any eligible beneficiary of the employee.

“(2) Eligible beneficiary.—For purposes of this subsection, the term ‘eligible beneficiary’ means any individual who is eligible to receive benefits or coverage under an accident or health plan.”.

(b) Exclusion of Amounts Expended for Medical Care.—The first sentence of section 105(b) of such Code (relating to amounts expended for medical care) is amended—

(1) by striking “and his dependents” and inserting “his dependents”, and

(2) by inserting before the period the following: “and any eligible beneficiary (within the meaning of section 106(f)) with respect to the taxpayer”.

(c) Payroll Taxes.—
(1) Section 3121(a)(2) of such Code is amended—

(A) by striking “or any of his dependents” in the matter preceding subparagraph (A) and inserting “, any of his dependents, or any eligible beneficiary (within the meaning of section 106(f)) with respect to the employee”,

(B) by striking “or any of his dependents,” in subparagraph (A) and inserting “, any of his dependents, or any eligible beneficiary (within the meaning of section 106(f)) with respect to the employee,”, and

(C) by striking “and their dependents” both places it appears and inserting “and such employees’ dependents and eligible beneficiaries (within the meaning of section 106(f))”.

(2) Section 3231(e)(1) of such Code is amended—

(A) by striking “or any of his dependents” and inserting “, any of his dependents, or any eligible beneficiary (within the meaning of section 106(f)) with respect to the employee,”, and

(B) by striking “and their dependents” both places it appears and inserting “and such
employees’ dependents and eligible beneficiaries
(within the meaning of section 106(f))”.

(3) Section 3306(b)(2) of such Code is amend-
ed—

(A) by striking “or any of his dependents”
in the matter preceding subparagraph (A) and
inserting “, any of his dependents, or any eligi-
ble beneficiary (within the meaning of section
106(f)) with respect to the employee,”,

(B) by striking “or any of his dependents”
in subparagraph (A) and inserting “, any of his
dependents, or any eligible beneficiary (within
the meaning of section 106(f)) with respect to
the employee”, and

(C) by striking “and their dependents”
both places it appears and inserting “and such
employees’ dependents and eligible beneficiaries
(within the meaning of section 106(f))”.

(4) Section 3401(a) of such Code is amended
by striking “or” at the end of paragraph (22), by
striking the period at the end of paragraph (23) and
inserting “; or”, and by inserting after paragraph
(23) the following new paragraph:

“(24) for any payment made to or for the ben-
efit of an employee or any eligible beneficiary (within
the meaning of section 106(f)) if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106 or under section 105 by reference in section 105(b) to section 106(f).”.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 3. EXPANSION OF DEPENDENCY FOR PURPOSES OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

“(1) Allowance of Deduction.—In the case of a taxpayer who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for—

“(A) the taxpayer,

“(B) the taxpayer’s spouse,

“(C) the taxpayer’s dependents, and

“(D) any individual who—
“(i) satisfies the age requirements of section 152(c)(3)(A),

“(ii) bears a relationship to the taxpayer described in section 152(d)(2)(H), and

“(iii) meets the requirements of section 152(d)(1)(C), and

“(E) one individual who—

“(i) does not satisfy the age requirements of section 152(c)(3)(A),

“(ii) bears a relationship to the taxpayer described in section 152(d)(2)(H),

“(iii) meets the requirements of section 152(d)(1)(D), and

“(iv) is not the spouse of the taxpayer and does not bear any relationship to the taxpayer described in subparagraphs (A) through (G) of section 152(d)(2).”.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 162(l)(2) of such Code is amended by inserting “, any dependent, or individual described in subparagraph (D) or (E) of paragraph (1) with respect to” after “spouse”.
(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 4. EXTENSION TO ELIGIBLE BENEFICIARIES OF SICK AND ACCIDENT BENEFITS PROVIDED TO MEMBERS OF A VOLUNTARY EMPLOYEES’ BENEFICIARY ASSOCIATION AND THEIR DEPENDENTS.

(a) In General.—Section 501(c)(9) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by adding at the end the following new sentence: “For purposes of providing for the payment of sick and accident benefits to members of such an association and their dependents, the term ‘dependents’ shall include any individual who is an eligible beneficiary (within the meaning of section 106(f)), as determined under the terms of a medical benefit, health insurance, or other program under which members and their dependents are entitled to sick and accident benefits.”.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.
SEC. 5. FLEXIBLE SPENDING ARRANGEMENTS AND HEALTH REIMBURSEMENT ARRANGEMENTS.

The Secretary of Treasury shall issue guidance of general applicability providing that medical expenses that otherwise qualify—

(1) for reimbursement from a flexible spending arrangement under regulations in effect on the date of the enactment of this Act may be reimbursed from an employee’s flexible spending arrangement, notwithstanding the fact that such expenses are attributable to any individual who is not the employee’s spouse or dependent (within the meaning of section 105(b) of the Internal Revenue Code of 1986) but is an eligible beneficiary (within the meaning of section 106(f) of such Code) under the flexible spending arrangement with respect to the employee, and

(2) for reimbursement from a health reimbursement arrangement under regulations in effect on the date of the enactment of this Act may be reimbursed from an employee’s health reimbursement arrangement, notwithstanding the fact that such expenses are attributable to an individual who is not a spouse or dependent (within the meaning of section 105(b) of such Code) but is an eligible beneficiary (within the meaning of section 106(f) of such Code) under
the health reimbursement arrangement with respect to the employee.

SEC. 6. EXTENSION OF QUALIFIED MEDICAL EXPENSES FROM HEALTH SAVINGS ACCOUNTS.

(a) In general.—Subparagraph (A) of section 223(d)(2) of the Internal Revenue Code of 1986 (relating to qualified medical expenses) is amended—

(1) by striking “and any dependent” and inserting “any dependent”, and

(2) by inserting “, and any qualified beneficiary” after “thereof”.

(b) Qualified Beneficiary.—Section 223(d)(2) of such Code is amended by inserting after subparagraph (C) the following new subparagraph:

“(D) QUALIFIED BENEFICIARY.—For purposes of subparagraph (A), the term ‘qualified beneficiary’ means any individual who is described in subparagraph (D) or (E) of section 162(l)(1).”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.