To amend the Internal Revenue Code of 1986 to modify the rules with respect to health savings accounts and medical savings accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2007

Mr. BOUSTANY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on 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

A BILL

To amend the Internal Revenue Code of 1986 to modify the rules with respect to health savings accounts and medical 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.

This Act may be cited as the “Promoting Health for Future Generations Act of 2007”.

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SEC. 2. INCREASE IN HSA CONTRIBUTION LIMITATION.

(a) IN GENERAL.—Subsection (b) of section 223 of
the Internal Revenue Code of 1986 (relating to monthly
limitation) is amended—

(1) by striking “$2,250” in paragraph (2)(A)
and inserting “the amount in effect under subsection
(e)(2)(A)(ii)(I)”, and

(2) by striking “$4,500” in paragraph (2)(B)
and inserting “the amount in effect under subsection
(e)(2)(A)(ii)(II)”.

(b) CONFORMING AMENDMENT.—Paragraph (1) of
section 223(g) of such Code is amended by striking “sub-
sections (b)(2)” and inserting “subsection”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply to contributions in taxable years

SEC. 3. MEDICARE AND VA HEALTHCARE ENROLLEES ELI-
GIBLE TO CONTRIBUTE TO HSA.

(a) IN GENERAL.—(1) Subsection (b) of section 223
of the Internal Revenue Code of 1986 is amended by strik-
ing paragraph (7).

(2) Subsection (c) of section 223 of such Code (relat-
ing to definitions and special rules) is amended by adding
at the end to following new paragraph:

“(6) SPECIAL RULE FOR INDIVIDUALS ENTI-
TLED TO BENEFITS UNDER MEDICARE OR EN-
ROLLED FOR HEALTH BENEFITS FROM VA.—In the case of an individual—

“(A)(i) who is entitled to benefits under title XVIII of the Social Security Act, and

“(ii) with respect to whom a health savings account is established in a month before the first month such individual is entitled to such benefits, or

“(B)(i) who is enrolled in the patient enrollment system established by the Secretary of Veterans Affairs pursuant to section 1705 of title 38, United States Code, and

“(ii) with respect to whom a health savings account is established in a month before the first month such individual is enrolled in such system,

such individual shall be deemed to be an eligible individual.’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 4. EXPANDING ADDITIONAL CONTRIBUTIONS LIMITATION.

(a) IN GENERAL.—
(1) AGE LIMITATION.—Subparagraph (A) of section 223(b)(3) of the Internal Revenue Code of 1986 (relating to additional contributions for individuals 55 or older) is amended by striking “age 55” and inserting “age 50”.

(2) CONTRIBUTION LIMITATION.—The table contained in section 223(b)(3) of such Code is amended—

(A) by striking “$900” and inserting “$2,000”, and

(B) by striking “$1,000” and inserting “$2,000”.

(3) CONFORMING AMENDMENT.—Paragraph (3) of section 223(b) of such Code is amended in the heading by striking “55” and inserting “50”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 5. ELIGIBILITY TO CONTRIBUTE TO HSA.

(a) INDIVIDUALS ELIGIBLE FOR REIMBURSEMENT UNDER SPOUSE’S FLEXIBLE SPENDING ARRANGE-
“(C) Special rule for certain flexible spending arrangements.—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 covered under a flexible spending arrangement (within the meaning of section 106(c)(2)) which is maintained by an employer of the spouse of the individual, but only if—

“(i) the employer is not also the employer of the individual, and

“(ii) the individual certifies to the employer and to the Secretary (in such form and manner as the Secretary may prescribe) that the individual and the individual’s spouse will not accept reimbursement under the arrangement for any expenses for medical care provided to the individual.”.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.
SEC. 6. PERMITTING MEDICARE SUPPLEMENTAL POLICY AS QUALIFIED MEDICAL EXPENSE.

(a) IN GENERAL.—Clause (iv) of section 223(d)(2)(C) of the Internal Revenue Code of 1986 (relating to qualified medical expenses) is amended by striking “other than a medicare supplemental policy” and all that follows through “Social Security Act”).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 7. DEDUCTION OF PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

“SEC. 224. PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.

“(a) DEDUCTION ALLOWED.—In the case of an individual, there shall be allowed as a deduction for the taxable year the aggregate amount paid by the taxpayer as premiums under a high deductible health plan with respect to months during such year for which such individual is an eligible individual with respect to such health plan.

“(b) DEFINITIONS.—For purposes of this section—
“(1) **ELIGIBLE INDIVIDUAL.**—The term ‘eligible individual’ means an individual who—

“(A) is described in section 223(c)(1), and

“(B) is the taxpayer or the taxpayer’s spouse and dependents.

“(2) **HIGH DEDUCTIBLE HEALTH PLAN.**—The term ‘high deductible health plan’ has the meaning given such term by section 223(c)(2).

“(e) **SPECIAL RULES.**—

“(1) **DEDUCTION LIMITS.**—

“(A) **DEDUCTION ALLOWABLE FOR ONLY 1 PLAN.**—For purposes of this section, in the case of an individual covered by more than 1 high deductible health plan for any month, the individual may only take into account amounts paid for such month for the plan with the lowest premium.

“(B) **PLANS COVERING INELIGIBLE INDIVIDUALS.**—If 2 or more individuals are covered by a high deductible health plan for any month but only 1 of such individuals is an eligible individual for such month, only 50 percent of the aggregate amount paid by such eligible individual as premiums under the plan with respect
to such month shall be taken into account for purposes of this section.

“(2) Group health plan coverage.—

“(A) In general.—No deduction shall be allowed for an individual under subsection (a) for any amount paid for coverage under a high deductible health plan for a month if that individual participates in any coverage under a group health plan (within the meaning of section 5000 without regard to section 5000(d)).

For purposes of the preceding sentence, an arrangement which constitutes individual health insurance shall not be treated as a group health plan if such arrangement is a high deductible health plan (as defined in section 223(c)(2)), or is a payment by an employer or employee organization with respect to such high deductible health plan, notwithstanding that an employer or employee organization negotiates the cost or benefits of such arrangement.

“(B) Exception for plans only providing contributions to health savings accounts.—Subparagraph (A) shall not apply to an individual if the individual’s only coverage under a group health plan for a month consists
of contributions by an employer to a health sav-
ings account with respect to which the indi-
vidual is the account beneficiary.

“(C) Exception for certain per-
mittted coverage.—Subparagraph (A) shall
not apply to an individual if the individual’s
only coverage under a group health plan for a
month is coverage described in clause (i) or (ii)
of section 223(c)(1)(B).

“(3) Medical and health savings ac-
counts.—Subsection (a) shall not apply with re-
spect to any amount which is paid or distributed out
of an Archer MSA or a health savings account which
is not included in gross income under section 220(f)
or 223(f), as the case may be.

“(4) Coordination with deduction for
health insurance of self-employed individ-
uals.—Any amount taken into account by the tax-
payer in computing the deduction under section
162(l) shall not be taken into account under this
section.

“(5) Coordination with medical expense
deduction.—Any amount taken into account by
the taxpayer in computing the deduction under this
section shall not be taken into account under section 213.”.

(b) Deduction Allowed Whether or Not Individual Itemizes Other Deductions.—Subsection (a) of section 62 of such Code is amended by inserting before the last sentence at the end the following new paragraph:

“(22) Premiums for high deductible health plans.—The deduction allowed by section 224.”.

(c) Coordination With Section 35 Health Insurance Costs Credit.—Section 35(g)(2) of such Code (relating to coordination with other deductions) is amended by striking “or 213” and inserting “, 213, or 224”.

(d) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by redesignating the item relating to section 224 as an item relating to section 225 and by inserting before such item the following new item:

“Sec. 224. Premiums for high deductible health plans.”.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 8. MODIFYING SAFE HARBOR RULES FOR DEDUCTIBLES FOR HIGH DEDUCTIBLE HEALTH PLANS.

(a) In General.—
(1) Deductible for prescribed drugs.—

Subparagraph (C) of section 223(e)(2) of the Internal Revenue Code of 1986 (defining high deductible health plan) is amended by striking “a deductible for preventative care” and all that follows and inserting the following: “a deductible for—

“(i) preventive care (within the meaning of section 1861 of the Social Security Act, except as otherwise provided by the Secretary), or

“(ii) a prescribed drug (as defined in section 213).”.

(2) Individual deductible limit for family plans.—Section 223(c)(2) of such Code is amended by adding at the end the following new subparagraph:

“(E) Special rule for family coverage.—A health plan providing family coverage shall not fail to meet the requirements of subparagraph (A)(i)(II) merely because the plan elects to provide both—

“(i) an aggregate annual deductible limit for all individuals covered by the plan which is not less than the amount in effect under subparagraph (A)(i)(II), and
“(ii) an annual deductible limit for each individual covered by the plan which is not less than the amount in effect under subparagraph (A)(i)(I).”.

(3) CONFORMING AMENDMENT.—Subparagraph (C) of section 223(c)(2) of such Code is amended in the heading by inserting “OR PRESCRIBED DRUG” after “PREVENTIVE CARE”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 9. MSA PLAN DEDUCTIBLE EXCEPTION FOR PREVENTIVE CARE.

(a) IN GENERAL.—Paragraph (3) of section 1859(b) of the Social Security Act (42 U.S.C. 1359w–28(b)) is amended by adding at the end the following new subparagraph:

“(C) EXCEPTION FOR ABSENCE OF PREVENTIVE CARE DEDUCTIBLE.—A plan shall not fail to be treated as a MSA plan by reason of failing to have a deductible for preventive care (within the meaning of such term as applied for purposes of section 223(c)(2)(C) of the Internal Revenue Code of 1986).”.

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(b) Effective Date.—The amendment made by this section shall take effect on January 1, 2008.

SEC. 10. PERMITTING INDIVIDUAL CONTRIBUTIONS TO MEDICARE ADVANTAGE MSA.

(a) In General.—Paragraph (2) of section 138(b) of the Internal Revenue Code of 1986 (defining Medicare Advantage MSA) is amended by striking “or” at the end of subparagraph (A), by inserting “or” at the end of sub-paragraph (B), and by adding at the end the following new subparagraph:

“(C) any contributions by or for the benefit of the account holder (other than a contribution described in subparagraph (A)) for the taxable year, the sum of which do not exceed the difference of—

“(i) the amount of the annual deductible (described in section 1859(b)(3)(B) of the Social Security Act) for the MSA plan in which the individual is enrolled, over

“(ii) the amount of contributions described in subparagraph (A) for the taxable year,”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.
SEC. 11. ALLOWING MSA AND HSA ROLLOVER TO ADULT CHILD OF ACCOUNT HOLDER.

(a) MSAs.—(1) Subparagraph (A) of section 220(f)(8) of the Internal Revenue Code of 1986 (relating to treatment after death of account holder) is amended—

(A) by inserting “or adult child” after “surviving spouse”,

(B) by inserting “or adult child, as the case may be,” after “the spouse”, and

(C) by inserting “OR ADULT CHILD” after “SPOUSE” in the heading thereof.

(2) Paragraph (8) of section 220(f) of such Code is amended by adding at the end the following new subparagraph:

“(C) ADULT CHILD.—For purposes of this paragraph, the term ‘adult child’ means an individual—

“(i) who is a child of the deceased individual, and

“(ii) with respect to whom a deduction under section 151 would not be allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins.”.
(b) HSAs.—(1) Subparagraph (A) of section 223(f)(8) of such Code (relating to treatment after death of account beneficiary) is amended—

(A) by inserting “or adult child” after “surviving spouse”,

(B) by inserting “or adult child, as the case may be,” after “the spouse”, and

(C) by inserting “OR ADULT CHILD” after “SPOUSE” in the heading thereof.

(2) Paragraph (8) of section 223(f) of such Code is amended by adding at the end the following new subparagraph:

“(C) ADULT CHILD.—For purposes of this paragraph, the term ‘adult child’ has the meaning given to such term by section 220(f)(8)(C).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 12. PERMITTING MEDICARE ADVANTAGE MSA FUNDS TO BE USED FOR WELLNESS AND FITNESS PROGRAMS.

(a) IN GENERAL.—Paragraph (1) of section 138(c) of the Internal Revenue Code of 1986 (relating to special rules for distributions) is amended by striking “and” at
the end of subparagraph (A), by striking the period at
the end of subparagraph (B) and inserting “, and”, and
by adding at the end the following new subparagraph:

“(C) qualified medical expenses shall in-
iclude amounts paid to a gym for enrollment in
a wellness or fitness program.”.

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