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

Mr. Hatch introduced the following bill; which was read twice and referred to the Committee on ____________________

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 Representatives 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 “Family and Retirement Health Investment Act of 2011”.

6 (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 to, or repeal of, a section or other provision, the reference
shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents is 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. Health FSA carryforwards.
Sec. 107. FSA and HRA interaction with HSAs.
Sec. 108. Allowance of distributions for prescription and over-the-counter medicines and drugs.
Sec. 109. Purchase of health insurance from HSA account.
Sec. 110. Special rule for certain medical expenses incurred before establishment of account.
Sec. 111. Preventive care prescription drug clarification.
Sec. 112. Equivalent bankruptcy protections for health savings accounts as retirement funds.
Sec. 113. Administrative error correction before due date of return.
Sec. 114. Reauthorization of medicaid health opportunity accounts.

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

(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 de-
scribed 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. HEALTH FSA CARRYFORWARDS.

(a) In General.—Section 125 is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

“(i) Special Rules Applicable to Health Flexible Spending Arrangements.—

“(1) In general.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a health flexible spending or similar arrangement solely because under the plan or arrangement a participant is permitted access to any unused balance in the participant’s accounts under such plan or arrangement in the manner provided under paragraph (2).

“(2) Carryforward of Unused Benefits in Health Arrangements.—

“(A) In general.—A plan or arrangement may permit a participant in a health flexible spending arrangement to elect to carry forward any aggregate unused balances in the participant’s accounts under such arrangement as of the close of any year to the succeeding year. Such carryforward shall be treated as having occurred within 30 days of the close of the year.
"(B) DOLLAR LIMIT ON CARRYFORWARDS.—

"(i) IN GENERAL.—The amount which a participant may elect to carry forward under subparagraph (A) from any year shall not exceed $500. For purposes of this paragraph, all plans and arrangements maintained by an employer or any related person shall be treated as 1 plan.

"(ii) COST-OF-LIVING ADJUSTMENT.—

In the case of any taxable year beginning in a calendar year after 2011, the $500 amount under clause (i) shall be increased by an amount equal to—

"(I) $500, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting ‘2010’ for ‘1992’ in subparagraph (B) thereof.

If any dollar amount as increased under this clause is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.
“(C) Exclusion from Gross Income.—
No amount shall be required to be included in gross income under this chapter by reason of any carryforward under this paragraph.

“(D) Coordination with Limits.—The maximum amount which may be contributed to a health flexible spending arrangement for any year to which an unused amount is carried under this paragraph shall be reduced by such amount.

“(3) Terms Relating to Flexible Spending Arrangements.—

“(A) Flexible Spending Arrangements.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions).

“(B) Health Arrangements.—The term ‘health flexible spending arrangement’ means any flexible spending arrangement (or portion thereof) which provides payments for expenses incurred for medical care (as defined in section 213(d)).”
(b) CONFORMING AMENDMENTS.—

(1) The heading for section 125 of the Internal Revenue Code of 1986 is amended by inserting “AND HEALTH FLEXIBLE SPENDING ARRANGEMENTS” after “PLANS”.

(2) The item relating to section 125 in the table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting “and health flexible spending arrangements” after “plans”.

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

SEC. 107. 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 described 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 pre-
ceeding subclauses of this clause.”.

(b) QUALIFIED HSA DISTRIBUTION SHALL NOT AF-
FECT 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 sec-
tion or section 105, merely because such plan pro-
vides for a qualified HSA distribution.”.

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

“(E) EXCEPTION FOR QUALIFIED HSA DIS-
TRIBUTIONS.—Subparagraph (A) shall not
apply to the extent that there is an amount re-
maining in a health flexible spending account at
the end of a plan year that an individual elects
to contribute to a health savings account pursu-
ant 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.—Subtitle (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.—Subtitle (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 after December 31, 2011, 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 2010’ 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. 108. ALLOWANCE OF DISTRIBUTIONS FOR PRESCRIPTION AND OVER-THE-COUNTER MEDICINES AND DRUGS.

(a) Repeal of Distributions for Medicine Qualified Only if for Prescribed Drug or Insulin.—Section 9003 of the Patient Protection and Affordable Care Act (Public Law 111–148) and the amendments made by such section are repealed and the Internal Revenue Code of 1986 shall be applied as if such section and amendments had never been enacted.
(b) Allowance of Distributions for All Medicines and Drugs.—

(1) HSAS.—Subparagraph (A) of section 223(d)(2) is amended by adding at the end the following: “Such term shall include an amount paid for any prescription or over-the-counter medicine or drug.”.

(2) ARCHER MSAS.—Subparagraph (A) of section 220(d)(2) is amended by adding at the end the following: “Such term shall include an amount paid for any prescription or over-the-counter medicine or drug.”.

(3) Health Flexible Spending Arrangements and Health Reimbursement Arrangements.— Section 106 is amended by adding at the end the following new subsection:

“(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.”.

(4) Effective Dates.—

(A) Distributions from Savings Accounts.—The amendments made by paragraphs (1) and (2) shall apply to amounts paid
with respect to taxable years beginning after December 31, 2009.

(B) Reimbursements.—The amendment made by paragraph (3) shall apply to expenses incurred with respect to taxable years beginning after December 31, 2009.

SEC. 109. 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 purchased after the date of the enactment of this Act in taxable years beginning after such date.
SEC. 110. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT.

(a) In General.—Paragraph (2) of section 223(d), as amended by section 109, 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. 111. 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. 112. 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. 113. 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. 114. 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 sec-
tion for a 5-year period, with each State demonstra-
tion program covering 1 or more geographic areas
specified by the State. With respect to a State, after
the initial 5-year period of any demonstration pro-
gram conducted under this section by the State, un-
less the Secretary finds, taking into account cost-eff-
effectiveness and quality of care, that the State dem-
onstration program has been unsuccessful, the dem-
onstration program may be extended or made per-
manent in the State.”; and

(B) in paragraph (3), in the matter pre-
ceeding 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(e)(2) of Pub-
lic Law 111–148), (x), or (xi) of” after “de-
scribed in”; and

(B) by striking paragraphs (4), (5), and
(6);
(3) in subsection (e)—

(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)”;

(4) in subsection (d)—

(A) in paragraph (2), by striking subparagaph (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 avail-
able 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 accord-
ance with subsection (c)(4).”.

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

TITLE II—OTHER PROVISIONS

SEC. 121. 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 para-
graph:
“(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. 122. CERTAIN NUTRITIONAL AND DIETARY SUPPLEMENTS TO BE TREATED AS MEDICAL CARE.

(a) IN GENERAL.—Subsection (d) of section 213, as amended by section 121, 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. 123. CERTAIN PROVIDER FEES TO BE TREATED AS MEDICAL CARE.

(a) IN GENERAL.—Subsection (d) of section 213, as amended by sections 121 and 122, 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 physician, physician assistant, or nurse practitioner 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.

SEC. 124. REPEAL OF ANNUAL LIMITATIONS ON DEDUCTIBLES FOR EMPLOYER-SPONSORED PLANS OFFERED IN SMALL GROUP MARKET.

Section 1302(e)(2) of the Patient Protection and Affordable Care Act (Public Law 111–148) is repealed.