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(Original Signature of Member)

115TH CONGRESS
2D SESSION

H. R. 6305

To amend the Internal Revenue Code of 1986 to improve access to health care through modernized health savings accounts.

IN THE HOUSE OF REPRESENTATIVES

Mr. KELLY of Pennsylvania (for himself and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to improve access to health care through modernized health savings accounts.

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.**

4 This Act may be cited as the “Bipartisan HSA Im-
5 provement Act of 2018”.

1 **SEC. 2. CERTAIN EMPLOYMENT RELATED SERVICES NOT**
2 **TREATED AS DISQUALIFYING COVERAGE FOR**
3 **PURPOSES OF HEALTH SAVINGS ACCOUNTS.**

4 (a) IN GENERAL.—Section 223(c)(1) of the Internal
5 Revenue Code of 1986 is amended by adding at the end
6 the following new subparagraph:

7 “(D) SPECIAL RULE FOR QUALIFIED
8 ITEMS AND SERVICES.—

9 “(i) IN GENERAL.—An individual
10 shall not be treated as covered under a
11 health plan for purposes of subparagraph
12 (A)(ii) merely because the individual, in
13 connection with the employment of the in-
14 dividual or the individual’s spouse, receives
15 (or is eligible to receive) qualified items
16 and services at—

17 “(I) a healthcare facility located
18 at a facility owned or leased by the
19 employer of the individual (or of the
20 individual’s spouse), or operated pri-
21 marily for the benefit of such employ-
22 er’s employees, or

23 “(II) a healthcare facility located
24 within a supermarket, pharmacy, or
25 similar retail establishment.

1 “(ii) QUALIFIED ITEMS AND SERVICES
2 DEFINED.—For purposes of this subpara-
3 graph, the term ‘qualified items and serv-
4 ices’ means the following:

5 “(I) Physical examinations.

6 “(II) Immunizations, including
7 injections of antigens provided by em-
8 ployees.

9 “(III) Drugs other than a pre-
10 scribed drug (as such term is defined
11 in section 213(d)(3)).

12 “(IV) Treatment for injuries oc-
13 curring in the course of employment.

14 “(V) Drug testing, if required as
15 a condition of employment.

16 “(VI) Hearing or vision
17 screenings.

18 “(VII) Other similar items and
19 services that do not provide signifi-
20 cant benefits in the nature of medical
21 care.

22 “(iii) AGGREGATION.—For purposes
23 of clause (i)(I), all persons treated as a
24 single employer under subsection (b), (c),

1 (m), or (o) of section 414 shall be treated
2 as a single employer.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to months beginning after Decem-
5 ber 31, 2018, in taxable years ending after such date.

6 **SEC. 3. CONTRIBUTIONS PERMITTED IF SPOUSE HAS A**
7 **HEALTH FLEXIBLE SPENDING ACCOUNT.**

8 (a) CONTRIBUTIONS PERMITTED IF SPOUSE HAS A
9 HEALTH FLEXIBLE SPENDING ACCOUNT.—Section
10 223(c)(1)(B) of the Internal Revenue Code of 1986 is
11 amended by striking “and” at the end of clause (ii), by
12 striking the period at the end of clause (iii) and inserting
13 “, and”, and by inserting after clause (iii) the following
14 new clause:

15 “(iv) coverage under a health flexible
16 spending arrangement of the spouse of the
17 individual for any plan year of such ar-
18 rangement if the aggregate reimburse-
19 ments under such arrangement for such
20 year do not exceed the aggregate expenses
21 which would be eligible for reimbursement
22 under such arrangement if such expenses
23 were determined without regard to any ex-
24 penses paid or incurred with respect to
25 such individual.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 2018.

4 **SEC. 4. FSA AND HRA TERMINATIONS OR CONVERSIONS TO**
5 **FUND HSAS.**

6 (a) IN GENERAL.—Section 106(e)(2) of the Internal
7 Revenue Code of 1986 is amended to read as follows:

8 “(2) QUALIFIED HSA DISTRIBUTION.—For pur-
9 poses of this subsection—

10 “(A) IN GENERAL.—The term ‘qualified
11 HSA distribution’ means, with respect to any
12 employee, a distribution from a health flexible
13 spending arrangement or health reimbursement
14 arrangement of such employee directly to a
15 health savings account of such employee if—

16 “(i) such distribution is made in con-
17 nection with such employee establishing
18 coverage under a high deductible health
19 plan (as defined in section 223(c)(2)) after
20 a significant period of not having such cov-
21 erage, and

22 “(ii) such arrangement is described in
23 section 223(c)(1)(B)(iii) with respect to
24 the portion of the plan year after such dis-
25 tribution is made.

1 “(B) DOLLAR LIMITATION.—The aggregate
2 amount of distributions from health flexible
3 spending arrangements and health reim-
4 bursement arrangements of any employee which
5 may be treated as qualified HSA distributions
6 in connection with an establishment of coverage
7 described in subparagraph (A)(i) shall not ex-
8 ceed the dollar amount in effect under section
9 125(i)(1) (twice such amount in the case of cov-
10 erage which is described in section
11 223(b)(2)(B)).”.

12 (b) PARTIAL REDUCTION OF LIMITATION ON DE-
13 DUCTIBLE HSA CONTRIBUTIONS.—Section 223(b)(4) of
14 such Code is amended by striking “and” at the end of
15 subparagraph (B), by striking the period at the end of
16 subparagraph (C) and inserting “, and”, and by inserting
17 after subparagraph (C) the following new subparagraph:

18 “(D) so much of any qualified HSA dis-
19 tribution (as defined in section 106(e)(2)) made
20 to a health savings account of such individual
21 during the taxable year as does not exceed the
22 aggregate increases in the balance of the ar-
23 rangement from which such distribution is
24 made which occur during the portion of the
25 plan year which precedes such distribution

1 (other than any balance carried over to such
2 plan year and determined without regard to any
3 decrease in such balance during such portion of
4 the plan year).”.

5 (c) CONVERSION TO HSA-COMPATIBLE ARRANGE-
6 MENT FOR REMAINDER OF PLAN YEAR.—Section
7 223(c)(1)(B)(iii) of such Code, as amended by the pre-
8 ceding provisions of this Act, is amended to read as fol-
9 lows:

10 “(iii) coverage under a health flexible
11 spending arrangement or health reimburse-
12 ment arrangement for the portion of the
13 plan year after a qualified HSA distribu-
14 tion (as defined in section 106(e)(2) deter-
15 mined without regard to subparagraph
16 (A)(ii) thereof) is made, if the terms of
17 such arrangement which apply for such
18 portion of the plan year are such that, if
19 such terms applied for the entire plan
20 year, then such arrangement would not be
21 taken into account under subparagraph
22 (A)(ii) of this paragraph for such plan
23 year, and”.

24 (d) INCLUSION OF QUALIFIED HSA DISTRIBUTIONS
25 ON W-2.—

1 (1) IN GENERAL.—Section 6051(a) of such
2 Code is amended by striking “and” at the end of
3 paragraph (16), by striking the period at the end of
4 paragraph (17) and inserting “, and”, and by insert-
5 ing after paragraph (17) the following new para-
6 graph: .

7 “(18) the amount of any qualified HSA dis-
8 tribution (as defined in section 106(e)(2)) with re-
9 spect to such employee.”.

10 (2) CONFORMING AMENDMENT.—Section
11 6051(a)(12) of such Code is amended by inserting
12 “(other than any qualified HSA distribution, as de-
13 fined in section 106(e)(2))” before the comma at the
14 end.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this subsection shall apply to distributions made after De-
17 cember 31, 2018, in taxable years ending after such date.