DESCRIPTION OF H.R. 6309, A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO ALLOW INDIVIDUALS ONLY ENROLLED IN MEDICARE PART A TO CONTRIBUTE TO HEALTH SAVINGS ACCOUNTS

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on July 11, 2018

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of H.R. 6309, a bill to amend the Internal Revenue Code of 1986 to allow individuals only enrolled in Medicare Part A to contribute to health savings accounts on July 11, 2018 which provides that with respect to an individual who is Medicare eligible but enrolled only in Medicare Part A hospital insurance benefits, the allowable deduction for contributions to an HSA does not become zero during any month for such individual. This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 6309, A Bill to amend the Internal Revenue Code of 1986 to Allow Individuals Only Enrolled in Medicare Part A to Contribute to Health Savings Accounts* (JCX-49-18), July 10, 2018. This document can also be found on the Joint Committee on Taxation website at www.jct.gov. All section references herein are to the Internal Revenue Code of 1986, as amended, unless otherwise stated.

A. Individuals Over Age 65 Entitled to Part A of Medicare Allowed to Contribute to Health Savings Accounts

Present Law

Health savings accounts

An individual with a high deductible health plan and no other health plan (other than a plan that provides certain permitted insurance or permitted coverage) may establish a health savings account ("HSA").[2] Subject to limits, contributions to an HSA made by or on behalf of an eligible individual are deductible in determining adjusted gross income of the individual (that is, an "above-the-line" deduction). Contributions to an HSA by an employer for an employee (including salary reduction contributions made through a cafeteria plan) are excludible from income and from wages for employment tax purposes.

HSA contributions are subject to annual limits that are adjusted to reflect annual cost-of-living increases. For 2018, the limit on annual contributions that can be made to an HSA is $3,450 in the case of self-only coverage and $6,850 in the case of family coverage.[3] The annual contribution limits are increased by $1,000 for individuals who have attained age 55 by the end of the taxable year (referred to as "catch-up" contributions.) Contributions, including catch-up contributions, cannot be made once an individual is enrolled in Medicare.

Individuals eligible for HSAs

Individuals eligible for HSAs are individuals who are covered by a high deductible health plan and no other health plan that (1) is not a high deductible health plan and (2) provides coverage for any benefit which is covered under the high deductible health plan. After an individual has attained age 65 and becomes enrolled in Medicare benefits, contributions can no longer be made to the individual's HSA.[4] An individual who is receiving retirement benefits

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[2] Sec. 223.

[3] The 2018 limitation for family coverage was revised by the IRS to permit taxpayers to disregard the $6,850 limitation under the modified inflation adjustment of Pub. L. No. 115-97. Rev. Rul. 2018-27, 2018-20 I.R.B. 591, May 14, 2018.)

[4] See sec. 223(b)(7), as interpreted by Notice 2004-2, 2004-2 I.R.B. 269 (December 22, 2003) corrected by Announcement 2004-67, 2004-36 I.R.B. 459 (September 7, 2004). ("After an individual has attained age 65 and becomes enrolled in Medicare benefits, contributions, including catch-up contributions, cannot be made to an individual's HSA.") See also, Notice 2004-50, 2004-33 IRB 1 (August 9, 2004), Q & A-2, ("Thus, an otherwise eligible individual under section 223(c)(1) who is not actually enrolled in Medicare Part A or Part B may contribute to an HSA until the month that individual is enrolled in Medicare.") See also Notice 2008-59, Q & A-5 and Q & A-6, 2008-29 I.R.B. 123 (June 25, 2008) ("an individual is not an eligible individual under section 223(c)(1) in any month during which such individual is both eligible for benefits under Medicare and enrolled to receive benefits under Medicare," including Part D (or any other Medicare benefit)).

from Social Security or the Railroad Retirement Board is automatically enrolled in both Medicare Part A and Part B starting the first day of the month in which he or she turns 65.[5]

When an individual is automatically enrolled in Medicare at age 65, the amount that can be deducted by that individual for contributions to the HSA drops to zero for the first month (and each subsequent month) that the individual is entitled to Medicare benefits.[6]

Description of Proposal

Under the proposal, with respect to an individual who is Medicare eligible but enrolled only in Medicare Part A hospital insurance benefits, the allowable deduction for contributions to an HSA does not become zero during any month for such individual. Such an individual is also considered as not having a health plan or other coverage that the high deductible health plan also provides that would cause that individual to fail to be an eligible individual for purposes of making contributions to an HSA. Thus, an individual eligible for Medicare but enrolled only in Medicare Part A would not fail to be treated as eligible to make HSA contributions merely by reason of enrollment in Medicare Part A. The proposal also removes the provision limiting the deduction for HSA contributions to zero in the case of Medicare eligible individuals.

Effective Date

The provision applies to months beginning after December 31, 2018, in taxable years ending after such date.

[5] 42 U.S.C. 426(a).

[6] Sec. 223(b)(7).