



H.R. 6199 – Restoring Access to Medication and Modernizing Health Savings Accounts Act of 2018

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FLOOR SCHEDULE: H.R. 6199 is scheduled for consideration on July 24, 2018, under a [closed rule](#).

TOPLINE SUMMARY: [H.R. 6199](#) would expand the usages for Health Savings Accounts; would make certain changes in the restrictions on Health Savings Accounts relating to spousal coverage; would allow for other health-related savings and spending accounts to be converted to Health Savings Accounts; would repeal certain restrictions Obamacare placed on the purchasing of over-the-counter medications with a Health Savings Account; and would allow for certain qualified sports and fitness expenses to be treated as qualified medical expenses.

COST: No CBO cost estimate is available at this time. However, the Joint Committee on Taxation has provided estimates on the costs for each individual bill that makes up H.R. 6199. The individual cost and sum is provided below.

Legislation	Cost
H.R. 6301	\$3,818,000,000.00
H.R. 6317	\$1,810,000,000.00
H.R. 6305	\$4,259,000,000.00
H.R. 6199, as introduced	\$6,723,000,000.00
H.R. 6312	\$3,533,000,000.00
Total: H.R. 6199, as amended	\$20,143,000,000.00

CONSERVATIVE CONCERNS:

While some conservatives may be pleased the bill would allow direct primary care arrangements to be used in conjunction with health savings accounts, some conservatives may have concerns with the cap

placed on the amount an individual or family may contribute to direct primary care service providers under Section 3 of the bill.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** This legislation would authorize the Secretary of Treasury to issue regulations or other guidance regarding provisions in the section relating to direct primary care service. This legislation would authorize the Secretary of Treasury to issue guidance to determine what does not constitute as a qualified physical activity.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 6199 would expand the usages for Health Savings Accounts; would make certain changes in the restrictions on Health Savings Accounts relating to spousal coverage; would allow for other health-related savings and spending accounts to be converted to Health Savings Accounts; would repeal certain restrictions Obamacare placed on the purchasing of over-the-counter medications with a Health Savings Account; and would allow for certain qualified sports and fitness expenses to be treated as qualified medical expenses. The bill combines several bills that were marked up and reported by the Ways and Means Committee.

Sec 2. First dollar coverage flexibility for high deductible health plans.

This section would allow a high deductible health plan to provide certain services for up to \$250 for self-use, and \$500 for family use during a plan year without satisfaction of the plan's minimal deductible. Therefore, this section would provide that a health plan would not fail to be treated as a high deductible health plan for not requiring a deductible for certain specified services for each plan year.

This section would specify that specified-services' means, with respect to a plan, services other than preventive care identified under the terms of the plan.

The amendments made by this section shall apply with respect to plan years beginning after December 31, 2018.

This section comes from H.R. 6301, the Promoting High-Value Health Care Through Flexibility for High Deductible Health Plans Act of 2018.

Sec 3. Treatment of direct primary care service arrangements.

A direct primary care service arrangement is a way of delivering health care services by which a primary doctor charges patients a retainer fee, or periodic fees, for services, as opposed to a fee-for-service model. In other words, direct primary care service arrangements usually charge a flat fee for a broad range of services, as opposed to a fee-for-service model where each service provided is charged a specific fee.

This section would allow for a direct primary care service arrangement to not be treated as a health plan which would make an individual ineligible to contribute to a health savings account.

This section would cap the monthly payment from health savings account to direct primary care service providers to \$150 for an individual, and \$300 for a family.

This section would exclude certain services from primary care services, including: 1) procedures that require the use of general anesthesia; 2) prescription drugs (other than vaccines)' and 3) laboratory services not typically administered in an ambulatory primary care setting.

This section specifies that the Secretary of Treasury, after consultation with the Secretary of Health and Human Services, shall be authorized to issue regulations or other guidance regarding the application of this section.

This section would specify that fees paid for direct primary care service arrangements shall be treated as medical expenses. Additionally, this section would specify that direct primary care service arrangements which would be paid by an employer, the aggregate fees for such arrangement for such employee shall be reported on the employee's W-2.

The amendments made by this section shall apply to months beginning after December 31, 2018, in taxable years ending after such date.

This section comes from H.R. 6317, the Primary Care Enhancement Act of 2018

Sec 4. Certain employment related services not treated as disqualifying coverage for purposes of health savings accounts.

According to the [Joint Committee on Taxation](#), "Under [current] IRS guidance, an otherwise eligible individual who has access to free health care or health care at charges below fair market value from a clinic on an employer's premises will not fail to be an eligible individual merely because of this free or reduced cost care as long as the clinic does not provide significant benefits in the nature of medical care in addition to disregarded coverage or preventive care."

This section would state that an individual shall not be treated as covered under a health plan for purposes of determining eligibility for a health savings account merely because the individual, in connection with the employment of the individual or that individual's spouse, receives (or is eligible to receive) qualified items and services at: 1) a health care facility located at a facility owned or leased by the employer of an individual (or of the individual's spouse), or operated primarily for the benefit of such employer's employees; or 2) a health care facility located within a supermarket, pharmacy, or similar retail establishment.

This section specifies that the qualified items and services include: 1) Physical examinations; 2) Immunizations, including injections of antigens provided by employees; 3) drugs other than a prescribed drug; 4) Treatment for injuries occurring in the course of employment; 5) Drug testing, if required as a condition of employment; 6) Hearing or vision screenings; and 7) other similar items and services that do not provide significant benefits in the nature of medical care.

The amendments made by this section would apply to months beginning after December 31, 2018, in taxable years ending after such date.

This section comes from H.R. 6305, the Bipartisan HSA improvement Act of 2018

Sec 5. Contributions permitted if spouse has as health flexible spending account.

According to the [Ways and Means Committee](#), “Under current law, FSAs can be used to reimburse expenses for an individual and their spouses and dependents. This eligibility for FSA benefits disqualifies an otherwise eligible FSA enrollee’s spouse from contributing to an HSA, even when each spouse is covered under a separate health plan.”

This section would specify that an individual’s eligibility for a health savings account would be determined without regard to whether or not the spouse of the individual has coverage under a health flexible savings account for any plan year if the aggregate reimbursements under the plan for such year do not exceed the aggregate expenses which would be eligible for reimbursement if determined without regard to the individual’s expenses paid or incurred for such individual.

The amendments made by this section would apply to plan years beginning after December 31, 2018.

This section comes from H.R. 6305, the Bipartisan HAS improvement Act of 2018

Sec 6. FSA and HRA terminations or conversions to fund HSAs.

Under current IRS guidance, an individual covered by a health flexible spending arrangement (FSA) or health reimbursement arrangement (HRA) is generally ineligible to contribute to a HSA.

This section would allow for Employers to convert their employees Flexible Saving Arrangements and Health Reimbursement Account balances into Health Savings Accounts, at the discretion of the employee. This amount would be capped at \$2,650 dollars for an individual and \$5,300 dollars for a family.

This section would also provide information on the amount of any qualified health savings accounts distribution would need to be included on the employees W-2 form.

The amendments made by this section would apply to months beginning after December 31, 2018, in taxable years ending after such date.

This section comes from H.R. 6305, the Bipartisan HSA improvement Act of 2018

Sec 7. Inclusion of certain over-the-counter medical products as qualified medical expenses.

This section would reverse Obamacare’s requirement for a prescription for tax-free reimbursement for the purchase of over-the-counter medicines from Health Savings Accounts, Flexible Spending Accounts, Health Reimbursement Accounts, and Archer Medical Savings Accounts.

This section would allow for health savings accounts to be used to purchase certain menstrual care products.

This section would amend the definition of qualified medical expense for Archer medical savings accounts to allow for certain menstrual care products to be purchased.

This section would amend the definition of qualified medical expense for health flexible spending accounts to allow for certain menstrual care products to be purchased.

The amendments proposed by this section regarding distributions shall apply to amounts paid after December 31, 2018.

This section comes from H.R. 6199, the Restoring Access to Medication and Modernizing Health Savings Accounts Act as introduced

Sec 8. Certain amounts paid for physical activity, fitness, and exercise treated as amounts paid for medical use.

This section would allow qualified sports and fitness expenses to be treated as medical care for tax purposes. This would include: 1) membership at a fitness facility; 2) participation or instruction in a program of qualified physical activity; and 3) safety equipment for use in a program, including a self-directed program.

This section would limit the total amount treated as qualified sports and fitness expenses to \$500 per taxpayer. Additionally, this section would limit the total amount treated as qualified sports and fitness expenses to \$250.

This section would exclude exercise videos, books, or similar materials from being defined as qualified sports and fitness expenses.

This section would state that the Secretary of the Treasury, after consultation with the Secretary of Health and Human Services, shall issue guidance to determine what does not constitute a qualified physical activity, including: 1) golf; 2) hunting; 3) sailing; 4) horseback riding; and 5) other similar activities.

This section would define 'fitness facility' to mean: 1) providing instruction in a program of qualified physical activity or facilities for qualified physical activity, 2) which is not a private club owned and operated by its members, 3) whose health or fitness facility is not incidental to its overall function and purpose, 4) and which is fully compliant with applicable State and Federal anti-discrimination laws.

This section would state that the rules which define 'fitness facility' would apply in the case of any program of facility that includes qualified physical activity, and also other components such as travel and accommodations.

The effective date of the amendments proposed by this section would apply to taxable years beginning after December 31, 2018.

This section comes from H.R. 6312, the PHIT act.

COMMITTEE ACTION:

This legislation was introduced on June 22, 2018, and was referred to the House Committee on Ways and Means. No further action was taken on H.R. 6199 as introduced; however, legislation action, including hearings and markups, were held for many of the underlying sections.

SUPPORT:

60 Plus Association

ALEC Action

[Americans for Tax Reform](#) - **Key Vote**

[Americans for Prosperity](#) - **Key Vote**

American Legislative Exchange Council
Association of Mature American Citizens
Campaign for Liberty
Council for Citizens against Government Waste
CURE
Digital Liberty
Employers Council on Flexible Compensation
ERISA Industry Committee
Faith & Freedom Coalition
Family Business Coalition
Freedom Partners Chamber of Commerce
FreedomWorks
Galen Institute
Goldwater Institute
Health Freedom Hub
Healthcare Leadership Council
HSA Coalition
HSAs for All
Hispanic Leadership Fund
Independent Women's Forum
Independent Women's Voice
Institute for Liberty
Our American Initiative
National Taxpayers Union
Taxpayers Protection Alliance
The Carlstrom Group
The LIBRE Initiative

[US Chamber of Commerce](#) - **Key Vote**

Virginians for Quality Health Care

ADMINISTRATION POSITION:

According to the [Statement of Administration Policy](#), "if H.R. 6199 were presented to the President in its current form, his advisors would recommend that he sign the bill into law."

CONSTITUTIONAL AUTHORITY:

According to the sponsor of this legislation: "Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States"

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