

118TH CONGRESS
1ST SESSION

H. R. 3029

To amend the Internal Revenue Code of 1986 to allow individuals with direct primary care service arrangements to remain eligible individuals for purposes of health savings accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2023

Mr. SMUCKER (for himself, Mr. BLUMENAUER, Ms. TENNEY, and Mr. SCHNEIDER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals with direct primary care service arrangements to remain eligible individuals for purposes of health savings accounts, and for other purposes.

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 “Primary Care En-
5 hancement Act of 2023”.

1 **SEC. 2. TREATMENT OF DIRECT PRIMARY CARE SERVICE**
2 **ARRANGEMENTS.**

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

6 “(E) TREATMENT OF DIRECT PRIMARY
7 CARE SERVICE ARRANGEMENTS.—

8 “(i) IN GENERAL.—A direct primary
9 care service arrangement shall not be
10 treated as a health plan for purposes of
11 subparagraph (A)(ii).

12 “(ii) DIRECT PRIMARY CARE SERVICE
13 ARRANGEMENT.—For purposes of this
14 paragraph—

15 “(I) IN GENERAL.—The term ‘di-
16 rect primary care service arrange-
17 ment’ means, with respect to any indi-
18 vidual, an arrangement under which
19 such individual is provided medical
20 care (as defined in section 213(d))
21 consisting solely of primary care serv-
22 ices provided by primary care practi-
23 tioners (as defined in section
24 1833(x)(2)(A) of the Social Security
25 Act, determined without regard to
26 clause (ii) thereof), if the sole com-

1 pensation for such care is a fixed peri-
2 odic fee.

3 “(II) LIMITATION.—With respect
4 to any individual for any month, such
5 term shall not include any arrange-
6 ment if the aggregate fees for all di-
7 rect primary care service arrange-
8 ments (determined without regard to
9 this subclause) with respect to such
10 individual for such month exceed
11 \$150 (twice such dollar amount in the
12 case of an individual with any direct
13 primary care service arrangement (as
14 so determined) that covers more than
15 one individual).

16 “(iii) CERTAIN SERVICES SPECIFI-
17 CALLY EXCLUDED FROM TREATMENT AS
18 PRIMARY CARE SERVICES.—For purposes
19 of this paragraph, the term ‘primary care
20 services’ shall not include—

21 “(I) procedures that require the
22 use of general anesthesia,

23 “(II) prescription drugs (other
24 than vaccines), and

1 “(III) laboratory services not
2 typically administered in an ambula-
3 tory primary care setting.

4 The Secretary, after consultation with the
5 Secretary of Health and Human Services,
6 shall issue regulations or other guidance
7 regarding the application of this clause.”.

8 (b) DIRECT PRIMARY CARE SERVICE ARRANGEMENT
9 FEES TREATED AS MEDICAL EXPENSES.—Section
10 223(d)(2)(C) of such Code is amended by striking “or”
11 at the end of clause (iii), by striking the period at the
12 end of clause (iv) and inserting “, or”, and by adding at
13 the end the following new clause:

14 “(v) any direct primary care service
15 arrangement.”.

16 (c) INFLATION ADJUSTMENT.—Section 223(g)(1) of
17 such Code is amended—

18 (1) by inserting “, (c)(1)(D)(ii)(II),” after
19 “(b)(2)” each place it appears, and

20 (2) in subparagraph (B), by inserting “and
21 (iii)” after “clause (ii)” in clause (i), by striking
22 “and” at the end of clause (i), by striking the period
23 at the end of clause (ii) and inserting “, and”, and
24 by inserting after clause (ii) the following new
25 clause:

1 “(iii) in the case of the dollar amount
2 in subsection (c)(1)(D)(ii)(II) for taxable
3 years beginning in calendar years after
4 2024, ‘calendar year 2023’.”.

5 (d) REPORTING OF DIRECT PRIMARY CARE SERVICE
6 ARRANGEMENT FEES ON W-2.—Section 6051(a) of such
7 Code is amended by striking “and” at the end of para-
8 graph (16), by striking the period at the end of paragraph
9 (17) and inserting “, and”, and by inserting after para-
10 graph (17) the following new paragraph:

11 “(18) in the case of a direct primary care serv-
12 ice arrangement (as defined in section
13 223(c)(1)(D)(ii)) which is provided in connection
14 with employment, the aggregate fees for such ar-
15 rangement for such employee.”.

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to months beginning after Decem-
18 ber 31, 2023, in taxable years ending after such date.

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