

117TH CONGRESS
1ST SESSION

H. R. 5157

To facilitate direct primary care arrangements.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 3, 2021

Mr. CRENSHAW introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To facilitate direct primary care arrangements.

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 “Direct Primary Care
5 for America Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

8 (1) Primary care services are able to reduce
9 healthcare costs, emergency room visits, and hos-
10 pitalizations.

1 (2) Health systems that invest in primary care
2 services are able to realign incentives in order to
3 focus on proactive interventions to achieve results
4 and population health.

5 (3) Primary care creates increased patient sat-
6 isfaction, physician engagement, and better patient
7 outcomes.

8 (4) Direct primary care is able to achieve physi-
9 cian compliance.

10 (5) The model of direct primary care can
11 change patient usage patterns, with more personal-
12 ized, home-based preventative care versus high-acu-
13 ity episodic care.

14 (6) Direct primary care medical homes are able
15 to incorporate community health via a collaborative
16 model approach.

17 (7) Direct primary care can be used with popu-
18 lation health platforms to develop a plan of care and
19 proposed wellness outcomes.

20 **SEC. 3. TREATMENT OF DIRECT PRIMARY CARE SERVICE**
21 **ARRANGEMENTS FOR PURPOSES OF HEALTH**
22 **SAVINGS ACCOUNT.**

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

1 “(D) TREATMENT OF DIRECT PRIMARY
2 CARE SERVICE ARRANGEMENTS.—

3 “(i) IN GENERAL.—A direct primary
4 care service arrangement shall not be
5 treated as a health plan for purposes of
6 subparagraph (A)(ii).

7 “(ii) DIRECT PRIMARY CARE SERVICE
8 ARRANGEMENT.—For purposes of this sub-
9 paragraph—

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

24 “(II) LIMITATION.—With respect
25 to any individual for any month, such

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

12 “(iii) CERTAIN SERVICES SPECIFI-
13 CALLY EXCLUDED FROM TREATMENT AS
14 PRIMARY CARE SERVICES.—For purposes
15 of this subparagraph, the term ‘primary
16 care services’ shall not include—

17 “(I) procedures that require the
18 use of general anesthesia, and

19 “(II) laboratory services not typi-
20 cally administered in an ambulatory
21 primary care setting.

22 The Secretary, after consultation with the
23 Secretary of Health and Human Services,
24 shall issue regulations or other guidance
25 regarding the application of this clause.”.

1 (b) DIRECT PRIMARY CARE SERVICE ARRANGEMENT
2 FEES TREATED AS MEDICAL EXPENSES.—Section
3 223(d)(2)(C) of such Code is amended by striking “or”
4 at the end of clause (iii), by striking the period at the
5 end of clause (iv) and inserting “, or”, and by adding at
6 the end the following new clause:

7 “(v) any direct primary care service
8 arrangement.”.

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

11 (1) by inserting “, (e)(1)(D)(ii)(II),” after
12 “(b)(2),” each place such term appears; and

13 (2) in subparagraph (B), by inserting “and
14 (iii)” after “clause (ii)” in clause (i), by striking
15 “and” at the end of clause (i), by striking the period
16 at the end of clause (ii) and inserting “, and”, and
17 by inserting after clause (ii) the following new
18 clause:

19 “(iii) in the case of the dollar amount
20 in subsection (e)(1)(D)(ii)(II) for taxable
21 years beginning in calendar years after
22 2021, ‘calendar year 2020’.”.

23 (d) REPORTING OF DIRECT PRIMARY CARE SERVICE
24 ARRANGEMENT FEES ON W-2.—Section 6051(a) of such
25 Code is amended by striking “and” at the end of para-

1 graph (16), by striking the period at the end of paragraph
2 (17) and inserting “, and”, and by inserting after para-
3 graph (17) the following new paragraph:

4 “(18) in the case of a direct primary care serv-
5 ice arrangement (as defined in section
6 223(c)(1)(D)(ii)) which is provided in connection
7 with employment, the aggregate fees for such ar-
8 rangement for such employee.”.

9 (e) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to months beginning after Decem-
11 ber 31, 2020, in taxable years ending after such date.

12 **SEC. 4. PROVIDING FOR STATE APPROVAL AND IMPLEMEN-**
13 **TATION OF SPECIFIED WAIVERS UNDER THE**
14 **MEDICAID PROGRAM.**

15 Section 1115 of the Social Security Act (42 U.S.C.
16 1315) is amended—

17 (1) in subsection (d)—

18 (A) in paragraph (1), by striking “An ap-
19 plication” and inserting “Subject to paragraph
20 (4), an application”; and

21 (B) by adding at the end the following new
22 paragraph:

23 “(4)(A) An experimental, pilot, or demonstra-
24 tion project undertaken under subsection (a) may be

1 approved or renewed by a State if such project is de-
2 scribed in subparagraph (B).

3 “(B) An experimental, pilot, or demonstration
4 project is described in this subparagraph if such
5 project provides for a waiver of requirements with
6 respect to a State plan (or a waiver of such plan)
7 under title XIX such that—

8 “(i) individuals enrolled under such plan
9 (or such waiver) may elect to participate in
10 such project with respect to a year; and

11 “(ii) such individuals who elect to so par-
12 ticipate are furnished with primary care serv-
13 ices (as described in section 223(c)(1)(D)(ii)(I)
14 of the Internal Revenue Code of 1986) through
15 a direct primary care service arrangement (as
16 defined in such section).

17 “(C) For purposes of a State’s approval or re-
18 newal of an experimental, pilot, or demonstration
19 project under subparagraph (A), each reference to
20 ‘the Secretary’ in subsection (a) shall be deemed to
21 be a reference to ‘the State.’”; and

22 (2) in subsection (e), by inserting “(other than
23 such a project that is described in paragraph
24 (4)(B))” before the period at the end.

1 **SEC. 5. HEALTH REIMBURSEMENT ARRANGEMENTS AND**
2 **OTHER ACCOUNT-BASED GROUP HEALTH**
3 **PLANS.**

4 The final rule of the Secretary of the Treasury, the
5 Secretary of Labor, and the Secretary of Health and
6 Human Services, titled “Health Reimbursement Arrange-
7 ments and Other Account-Based Group Health Plans”
8 and published in the Federal Register on June 20, 2019
9 (84 Fed. Reg. 28888), shall have the same force and effect
10 of law as if such rule had been enacted by an Act of Con-
11 gress.

12 **SEC. 6. SENSE OF CONGRESS.**

13 It is the sense of Congress that organizations offering
14 Medicare Advantage plans under part C of title XVIII of
15 the Social Security Act (42 U.S.C. 1395w–21 et seq.)
16 should expand the offering of MSA plans (as defined in
17 section 1859(b)(3) of the Social Security Act (42 U.S.C.
18 1395w–28(b)(3))) under such part.

19 **SEC. 7. ELIGIBILITY OF ENTITIES THAT OFFER DIRECT PRI-**
20 **MARY CARE SERVICE ARRANGEMENTS IN**
21 **CERTAIN NATIONAL HEALTH SERVICE CORPS**
22 **PROGRAMS.**

23 Notwithstanding subpart II or III of part D of title
24 III of the Public Health Service Act (42 U.S.C. 254d et
25 seq.), an entity shall be eligible for assignment of one or
26 more individuals performing a period of obligated service

1 pursuant to the National Health Service Corps Scholar-
2 ship Program or National Health Service Corps Loan Re-
3 payment Program if such entity—

4 (1) offers direct primary care service arrange-
5 ments (as defined in section 223(c)(1)(D) of the In-
6 ternal Revenue Code of 1986); and

7 (2) is in a health professional shortage area (as
8 defined in section 331(a) of the Public Health Serv-
9 ice Act (42 U.S.C. 254d(a))).

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