

118TH CONGRESS  
1ST SESSION

# H. R. 5687

To amend the Internal Revenue Code of 1986 to modernize health savings accounts.

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2023

Ms. VAN DUYNE introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to modernize 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 “HSA Modernization  
5 Act of 2023”.

1 **SEC. 2. INDIVIDUALS WITHOUT SERVICE-CONNECTED DIS-**  
2 **ABILITY AND ELIGIBLE FOR CERTAIN VET-**  
3 **ERANS BENEFITS PERMITTED TO CON-**  
4 **TRIBUTE TO HEALTH SAVINGS ACCOUNTS.**

5 (a) IN GENERAL.—Section 223(c)(1)(C) of the Inter-  
6 nal Revenue Code of 1986 is amended by striking “for  
7 a service-connected disability (within the meaning of sec-  
8 tion 101(16) of title 38, United States Code)”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall apply to taxable years beginning after  
11 December 31, 2025.

12 **SEC. 3. INDIVIDUALS ENTITLED TO PART A OF MEDICARE**  
13 **BY REASON OF AGE ALLOWED TO CON-**  
14 **TRIBUTE TO HEALTH SAVINGS ACCOUNTS.**

15 (a) IN GENERAL.—Section 223(c)(1)(B) of the Inter-  
16 nal Revenue Code of 1986 is amended by striking “and”  
17 at the end of clause (ii), by striking the period at the end  
18 of clause (iii) and inserting “, and”, and by adding at the  
19 end the following new clause:

20 “(iv) entitlement to hospital insurance  
21 benefits under part A of title XVIII of the  
22 Social Security Act by reason of section  
23 226(a) of such Act.”.

24 (b) TREATMENT OF HEALTH INSURANCE PUR-  
25 CHASED FROM ACCOUNT.—Section 223(d)(2)(C)(iv) of  
26 such Code is amended by inserting “and who is not an

1 eligible individual” after “who has attained the age speci-  
2 fied in section 1811 of the Social Security Act”.

3 (c) COORDINATION WITH PENALTY ON DISTRIBU-  
4 TIONS NOT USED FOR QUALIFIED MEDICAL EX-  
5 PENSES.—Section 223(f)(4)(C) of such Code is amended  
6 by striking “Subparagraph (A)” and inserting “Except in  
7 the case of an eligible individual, subparagraph (A)”.

8 (d) CONFORMING AMENDMENT.—Section 223(b)(7)  
9 of such Code is amended by inserting “(other than an enti-  
10 tlement to benefits described in subsection (c)(1)(B)(iv))”  
11 after “Social Security Act”.

12 (e) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to months beginning after Decem-  
14 ber 31, 2025, in taxable years ending after such date.

15 **SEC. 4. INDIVIDUALS ELIGIBLE FOR INDIAN HEALTH SERV-**  
16 **ICE ASSISTANCE NOT DISQUALIFIED FROM**  
17 **HEALTH SAVINGS ACCOUNTS.**

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

21 “(E) SPECIAL RULE FOR INDIVIDUALS EL-  
22 IGIBLE FOR ASSISTANCE UNDER INDIAN  
23 HEALTH SERVICE PROGRAMS.—For purposes of  
24 subparagraph (A)(ii), an individual shall not be  
25 treated as covered under a health plan de-

1           scribed in such subparagraph merely because  
2           the individual receives hospital care or medical  
3           services under a medical care program of the  
4           Indian Health Service or of a tribal organiza-  
5           tion.”.

6           (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2025.

9 **SEC. 5. ALLOWANCE OF BRONZE AND CATASTROPHIC**  
10 **PLANS IN CONNECTION WITH HEALTH SAV-**  
11 **INGS ACCOUNTS.**

12           (a) IN GENERAL.—Section 223(c)(2) of the Internal  
13 Revenue Code of 1986 is amended by adding at the end  
14 the following new subparagraph:

15                   “(H) BRONZE AND CATASTROPHIC PLANS  
16           TREATED AS HIGH DEDUCTIBLE HEALTH  
17           PLANS.—The term ‘high deductible health plan’  
18           shall include any plan described in subsection  
19           (d)(1)(A) or (e) of section 1302 of the Patient  
20           Protection and Affordable Care Act.”.

21           (b) EFFECTIVE DATE.—The amendment made by  
22 this section shall apply to months beginning after Decem-  
23 ber 31, 2025, in taxable years ending after such date.

1 **SEC. 6. SAFE HARBOR FOR ABSENCE OF DEDUCTIBLE FOR**  
2 **MENTAL HEALTH SERVICES.**

3 (a) IN GENERAL.—Section 223(c)(2) of the Internal  
4 Revenue Code of 1986, as amended by this Act, is amend-  
5 ed by adding at the end the following new subparagraph:

6 “(I) SAFE HARBOR FOR ABSENCE OF DE-  
7 DUCTIBLE FOR MENTAL HEALTH SERVICES.—A  
8 plan shall not fail to be treated as a high de-  
9 ductible health plan by reason of failing to have  
10 a deductible for not more than the first \$500  
11 of any mental health benefits (as defined in sec-  
12 tion 9812(e)(4)) specified by the plan for pur-  
13 poses of this subparagraph.”.

14 (b) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to plan years beginning after De-  
16 cember 31, 2025.

17 **SEC. 7. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**  
18 **INCURRED BEFORE ESTABLISHMENT OF**  
19 **HEALTH SAVINGS ACCOUNT.**

20 (a) IN GENERAL.—Section 223(d)(2) of the Internal  
21 Revenue Code of 1986 is amended by adding at the end  
22 the following new subparagraph:

23 “(E) TREATMENT OF CERTAIN MEDICAL  
24 EXPENSES INCURRED BEFORE ESTABLISHMENT  
25 OF ACCOUNT.—If a health savings account is  
26 established during the 60-day period beginning

1 on the date that coverage of the account bene-  
2 ficiary under a high deductible health plan be-  
3 gins, then, solely for purposes of determining  
4 whether an amount paid is used for a qualified  
5 medical expense, such account shall be treated  
6 as having been established on the date that  
7 such coverage begins.”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply with respect to coverage beginning  
10 after December 31, 2025.

11 **SEC. 8. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**  
12 **TRIBUTIONS TO THE SAME HEALTH SAVINGS**  
13 **ACCOUNT.**

14 (a) IN GENERAL.—Section 223(b)(5) of the Internal  
15 Revenue Code of 1986 is amended to read as follows:

16 “(5) SPECIAL RULE FOR MARRIED INDIVIDUALS  
17 WITH FAMILY COVERAGE.—

18 “(A) IN GENERAL.—In the case of individ-  
19 uals who are married to each other, if both  
20 spouses are eligible individuals and either  
21 spouse has family coverage under a high de-  
22 ductible health plan as of the first day of any  
23 month—

24 “(i) the limitation under paragraph  
25 (1) shall be applied by not taking into ac-

1 count any other high deductible health  
2 plan coverage of either spouse (and if such  
3 spouses both have family coverage under  
4 separate high deductible health plans, only  
5 one such coverage shall be taken into ac-  
6 count),

7 “(ii) such limitation (after application  
8 of clause (i)) shall be reduced by the ag-  
9 gregate amount paid to Archer MSAs of  
10 such spouses for the taxable year, and

11 “(iii) such limitation (after application  
12 of clauses (i) and (ii)) shall be divided  
13 equally between such spouses unless they  
14 agree on a different division.

15 “(B) TREATMENT OF ADDITIONAL CON-  
16 TRIBUTION AMOUNTS.—If both spouses referred  
17 to in subparagraph (A) have attained age 55  
18 before the close of the taxable year, the limita-  
19 tion referred to in subparagraph (A)(iii) which  
20 is subject to division between the spouses shall  
21 include the additional contribution amounts de-  
22 termined under paragraph (3) for both spouses.  
23 In any other case, any additional contribution  
24 amount determined under paragraph (3) shall  
25 not be taken into account under subparagraph

1 (A)(iii) and shall not be subject to division be-  
2 tween the spouses.”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2025.

6 **SEC. 9. MAXIMUM CONTRIBUTION LIMIT TO HEALTH SAV-**  
7 **INGS ACCOUNT INCREASED TO AMOUNT OF**  
8 **DEDUCTIBLE AND OUT-OF-POCKET LIMITA-**  
9 **TION.**

10 (a) SELF-ONLY COVERAGE.—Section 223(b)(2)(A)  
11 of the Internal Revenue Code of 1986 is amended by strik-  
12 ing “\$2,250” and inserting “the amount in effect under  
13 subsection (c)(2)(A)(ii)(I)”.

14 (b) FAMILY COVERAGE.—Section 223(b)(2)(B) of  
15 such Code is amended by striking “\$4,500” and inserting  
16 “the amount in effect under subsection (c)(2)(A)(ii)(II)”.

17 (c) CONFORMING AMENDMENTS.—Section 223(g)(1)  
18 of such Code is amended—

19 (1) by striking “subsections (b)(2) and” both  
20 places it appears and inserting “subsection”, and

21 (2) in subparagraph (B), by striking “deter-  
22 mined by” and all that follows through “‘calendar  
23 year 2003’.” and inserting “determined by sub-  
24 stituting ‘calendar year 2003’ for ‘calendar year  
25 2016’ in subparagraph (A)(ii) thereof.”.



1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2025.

4 **SEC. 10. CLARIFICATION OF TREATMENT OF DISTRIBUTIONS FROM HEALTH SAVINGS ACCOUNT**  
5 **FOR LONG-TERM CARE SERVICES.**  
6

7 (a) IN GENERAL.—Section 223(d)(2)(A) of the Inter-  
8 nal Revenue Code of 1986 is amended by inserting before  
9 the last sentence the following: “Such term includes  
10 amounts paid for qualified long-term care services (as de-  
11 fined in section 7702B(e)).”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 this subsection shall apply to amounts paid after the date  
14 of the enactment of this Act.

15 (c) NO INFERENCE.—Nothing contained in this sec-  
16 tion or the amendment made thereby shall be construed  
17 to create any inference with respect to any amounts paid  
18 on or before such date.

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