

## LAW &amp; POLICY GROUP

**GRIST**

## HEALTH SAVINGS ACCOUNT REFORMS PASS KEY HOUSE PANEL

*By Mercer's Geoff Manville and Dorian Z. Smith  
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Three bipartisan bills to expand and improve the flexibility of health savings accounts (HSAs) cleared the powerful House Ways and Means Committee on Oct. 23. While the outlook for House and Senate floor votes on the HSA measures is uncertain, their bipartisan approval by the Ways and Means panel could set the stage for further action in the 116th Congress.

### NEW PLAN DESIGNS, CHRONIC DISEASE, OTC DRUGS TARGETED

The bills, which reflect employer recommendations for modernizing and enhancing HSA rules, would make several updates to current law:

- The [Primary Care Enhancement Act](#) (HR 3708) would allow otherwise HSA-eligible individuals who use "direct primary care service arrangements" (DPCSAs) to remain eligible to make or receive HSA contributions. Thus, DPCSA coverage would not jeopardize an individual's HSA eligibility, and HSA funds could be used to pay for or reimburse DPCSA fees. For this purpose, a DPCSA is an arrangement under which individuals receive only primary care services from primary care practitioners, whose sole compensation for those services is a fixed periodic fee. To qualify as a DPCSA for these purposes, aggregate monthly fees would initially be capped at \$150 for individual coverage and \$300 for arrangements covering more than one individual, then annually indexed for inflation.
- The [Inhaler Coverage and Access Now Act](#) (I CAN Act, HR 4716) would allow HSA-qualifying high-deductible health plans (HDHPs) to cover on a predeductible basis any medicine or drug delivered through inhalers to treat any chronic lung disease. IRS [Notice 2019-45](#) recently expanded the list of preventive care benefits that HSA-qualifying HDHPs can — but are not required to — cover before enrollees have met the deductible. However, that list includes only inhaled corticosteroids for asthma, while this bill goes further.
- The [Restoring Access to Medication Act](#) (HR 1922) would repeal the Affordable Care Act's ban on using HSA funds to pay for or reimburse over-the-counter drugs (unless prescribed). In addition, the bill would allow HSA funds to pay for or reimburse expenses for menstrual care products. These

changes would also apply to reimbursements from health flexible spending arrangements (health FSAs) and health reimbursement arrangements (HRAs).

**Much of bills' revenue cost offset.** The Joint Committee on Taxation's estimated 10-year \$11.6 billion price tag for these bills would be partially offset by another [measure](#) (HR 4742) approved by Ways and Means. This bill would establish a new tax on nicotine used in vaping devices and is projected to raise \$9.8 billion over the same time period.

## RELATED RESOURCES

### Non-Mercer Resources

- [Substitute Amendment to HR 3708](#), the Primary Care Enhancement Act (Ways and Means Committee, Oct. 21, 2019)
- [Substitute Amendment to HR 4716](#), the Inhaler Coverage and Access Now Act (Ways and Means Committee, Oct. 21, 2019)
- [Substitute Amendment to HR 1922](#), the Restoring Access to Medication Act (Ways and Means Committee, Oct. 21, 2019)
- [Substitute Amendment to HR 4742](#), the Protecting Americans' Lungs Act (Ways and Means Committee, Oct. 21, 2019)

### Mercer Law & Policy Resources

- [IRS Expands Pre deductible Preventive Care for HSA-Qualifying Health Plans](#) (July 23, 2019)
- [Executive Order Targets Price and Quality Transparency, and HSA/ FSA Changes](#) (July 10, 2019)
- [2020 Health Savings Account, High-Deductible Health Plan Figures Issued](#) (May 28, 2019)

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