

Fact Sheet: S. 2999, The Primary Care Enhancement Act

Today, dated IRS rules say that 23 million Americans with high deductible health plans (HDHPs) are not eligible for Direct Primary Care (DPC) if they fund an HSA. According to the Bipartisan Joint Committee on Taxation (JCT) “Under present law, a direct primary care service arrangement is other coverage or insurance, and therefore the HDHP covered person is not an eligible individual to contribute to an HSA.” Section 223 (c) of the Internal Revenue Code (IRC) says to be eligible to fund an HSA, an individual must be covered by an HDHP and no other health plan or coverage for benefits in an HDHP (like primary care). This effectively disqualifies one third of the Americans covered by their employers, who currently have high deductible plans from getting great primary care from a doctor of their choice with a DPC arrangement that establishes a personal relationship a patient and doctor.

The Primary Care Enhancement Act creates a simple exception for this existing IRS definition of a DPC agreement a health plan applicable for affordable DPC arrangements that cost less than \$150 per month and do not bundle into a DPC agreement procedures that require the use of general anesthesia, or laboratory services not typically administered in an ambulatory primary care setting. According the bipartisan Joint Committee on Taxation:

- “Under the proposal, a direct primary care service arrangement will not be treated as a health plan that will make an individual ineligible to contribute to an HSA.”
- “Fees paid for any direct primary care service arrangement will be treated as medical expenses (and not the payment of insurance).”
- “The sole compensation for such care (in a DPC arrangement) is a fixed periodic fee... for primary care services provided by primary care practitioners.”

Read the full JCT text here: [JCT Description: JCX-47-19](#)

These definitions only apply to a limited section of the tax code pertaining to HSA eligibility, which is the one and only section prohibiting DPC arrangements for patients with funded HSA accounts.

Does the Bill treat DPC as Insurance? The bill specifically says that a DPC arrangement “shall not be treated as a health plan” and treats fees for DPC arrangements as medical expenses, not insurance. Any thoughts that this creates a new definition as insurance is a misinterpretation.

Why the limitations on fees? The JCT says these new triple-tax-preferred benefits cost roughly \$1.8 billion in lost tax revenue. As a compromise to keep the cost down, the Ways and Means Committee added reasonable limits to this special exception in the tax code. These are common compromises in legislation. These limits are intended to allow for reasonable, affordable fees for patients. They are indexed for inflation annually and are double the current median monthly fee for a DPC agreement. The limitations are only applied to individuals with HSAs. **And it’s important to note that under current law there is a cap on the amount DPC physicians can charge patients who use HSAs. That cap is \$0.**

Why Does the Bill Apply only to Primary Care? Today there aren’t major specialties outside of primary care where it’s practical to have a monthly fee agreement, which is the key issue in the tax code. All versions of the bill since its inception have narrowly defined these clarifications to primary care services.

Does the bill prohibit doctors from offering discounted drugs to patients? No. A provision in the House bill simply says fees for the DPC agreements can’t include pharmaceuticals. The Senate version of the bill removes that provision. Although the provision in the House bill would have little impact on physicians who dispense medications—some states don’t allow physicians to dispense at all—the optics of this provision are not ideal as Congress seeks policies to lower prescription drug prices.

DPC is a good, simple, and affordable Idea. With DPC you or your employer pays for a personal relationship with a primary care doctor at an affordable rate. We want to make sure there are no obstacles in the tax code and other parts of the law that prevent this from being an important choice for people to improve their healthcare.

Please join patients, doctors, employers, and the 23 million Americans who should have access to better primary care. Support S.2999 and H.R. 3708, to make good, simple affordable primary care a reality all Americans.