



# Compliance Alert

## HSA Bills Increasing Contributions and Expanding Access Pass House

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On Wednesday, the House passed two HSA bills intended to expand HSA eligibility, contributions, and distribution uses:

- H.R. 6199: [Restoring Access to Medication and Modernizing Health Savings Accounts Act of 2018](#)
- H.R. 6311: [Increasing Access to Lower Premium Plans and Expanding Health Savings Accounts Act of 2018](#)

Both bills still need to pass the Senate, where 60 votes are required to overcome the filibuster and reach the President's desk for signature.

As we saw with [the American Health Care Act's failure \(in many variations\) to pass the Senate](#)—even with the advantage of a reduced 50-Senator threshold through the reconciliation process—Senate passage is far from certain.

### **H.R. 6199: Restoring Access to Medication Act and Modernizing Health Savings Accounts Act of 2018**

- **Limited First-Dollar HDHP Coverage:** Allows HDHPs to provide first-dollar coverage (*i.e.*, before satisfying the HDHP minimum deductible) for non-preventive services up to \$250 per year for individuals, and \$500 per year for families.
- **Concierge Primary Care:** Concierge-style primary care services would not be disqualifying coverage for HSA eligibility as long as the fee to access the primary care practitioner does not exceed \$150 per month for individuals or \$300 per month for families.
- **On-Site Medical Clinics:** Employer-provided on-site medical clinics that offer free or discounted services would not be disqualifying coverage—provided the clinic's offerings are limited to the enumerated qualified items and services.
- **Spousal Health FSA:** An employee's enrollment in a general purpose health FSA would no longer be disqualifying coverage for HSA eligibility for the employee's spouse—

provided the employee does not submit any of the spouse's expenses for reimbursement under the health FSA.

- **FSA/HRA Conversions to Fund HSAs:** Upon enrolling in a HDHP, employees could elect to convert existing FSA or HRA balances into an HSA contribution, limited to \$2,650 for an individual and \$5,300 for a family.
- **OTC Medicines and Drugs Without Rx:** The bill removes the new ACA requirement that HSA distributions for over-the-counter medicines and drugs be provided pursuant to a physician prescription to qualify for a tax-free distribution (while also adding menstrual care products as a qualifying expense).
- **Wellness Costs as Medical Expenses:** The bill adds "qualified sports and fitness expenses," including gym memberships, as a tax deductible medical expense for all purposes (including tax-free HSA medical distributions). The limit is \$500 for individual filers and \$1,000 for joint returns.

### **H.R. 6311: Increasing Access to Lower Premium Plans and Expanding Health Savings Accounts Act of 2018**

- **Expanded Health FSA Carryover:** Expands on the current \$500 carryover provision to allow health FSA balances of up to three times the annual FSA salary reduction election contribution limit (currently \$2,650) to be carried over. This would effectively end the use-it-or-lose-it rule.
- **Medicare Part A Not Disqualifying:** Permits individuals to remain HSA eligible after enrollment in Medicare Part A, which is automatic and irreversible for those receiving Social Security retirement benefits. See our ABD Office Hours [Medicare for Employers](#) for more details.
- **Doubling the HSA Contribution Limit:** Increasing the HSA annual contribution limit to match the HDHP out-of-pocket maximum. That would permit HSA-eligible individuals to contribute up to \$6,650 for individuals and \$13,300 for families in 2018.
- **Spousal Catch-Up Contributions:** Currently, spouses who are catch-up eligible (age 55+) must contribute the up to \$1,000 additional amount to their own HSA. The bill would permit both catch-up eligible spouses to make the \$1,000 additional contribution to the same HSA.
- **HSA Establishment Grace Period:** HSA distributions currently may be made on a tax-free basis if the medical expense was incurred on or after establishing the HSA (i.e., funding the HSA). The bill would permit tax-free distributions incurred prior to HSA establishment, provided the account is funded within 60 days of HDHP enrollment.
- **Bronze and Catastrophic Plans for HSA Eligibility:** The bill would expand the definition of HDHP to include all Bronze level exchange plans and catastrophic coverage to qualify for HSA eligibility.
- **Copper Plans Open to All:** Unrelated to HSAs, the bill would allow anyone to purchase a lower-level "Copper" plan (currently limited to those under age 30 or qualifying for a hardship exemption).

- **Health Insurance Premium Tax Moratorium Extended:** Also unrelated to HSAs, the bill would eliminate the ACA health insurance premium tax for 2020 and 2021. This would be an extension of the moratorium already put in place [as part of the budget deal earlier this year](#) that eliminated the tax for 2019 (and delayed the Cadillac Tax another two years to 2022).

### Summary

These two bills offer welcome enhancements that would continue to expand the desirability and use of HSAs. We will keep you updated on their very much uncertain future in the Senate.

For more information on the future of HSAs, see our ABD Commentary [HSAs to Lead the Way After ACA](#).

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