Ways and Means Committee reports pair of bills boosting health savings accounts

After a lengthy and highly partisan mark-up session, the House Ways and Means Committee on September 28 reported two pieces of legislation that would, among other things, expand the ranks of individuals eligible to contribute to tax-favored health savings accounts (HSAs) and increase the amount eligible individuals may contribute to such accounts.

As a general matter, an individual who maintains health coverage through a so-called high-deductible health plan (HDHP) may contribute—or their employer may contribute—on a tax-favored basis, funds to a health savings account (HSA) from which eligible medical expenses can be paid without the distributions being included in the individual's gross income. In 2023, the basic limit on annual HSA contributions is $3,850 in the case of self-only coverage and $7,750 for family coverage, with both limits being increased by $1,000 for those who have attained age 55 (so-called "catch-up" contributions). Under the health savings account rules, an HDHP is a health plan that has an annual deductible at least $1,500 (for 2023) for self-only coverage (twice this amount for family coverage), and for which the sum of the annual deductible and other annual out-of-pocket expenses (aside from premiums) for covered benefits does not exceed $7,500 (for 2023) for self-only coverage (twice this amount for family coverage). These dollar thresholds are adjusted for inflation.

In opening the mark-up, Ways and Means Committee Chairman Jason Smith, R-Mo., lauded the two bills' efforts make HSAs more generous and available to a broader swath of Americans.

"All of these efforts aim to make these savings opportunities more available, more flexible, and more reflective of the reality individuals face in covering their health care expenses—all of which will help increase patient access to care," Smith said.

"HSAs have a meaningful tax advantage, and I'm proud we're improving these accounts so families can take the most advantage of this investment in their health."

HSA Modernization Act of 2023

The HSA Modernization Act of 2023 (H.R. 5687: text, summary), which was introduced by Republican taxwriter Beth Van Duyne of Texas and cleared the committee on a straight party-line vote of 24-18, would make several changes to the tax rules governing HSAs, including increasing the annual cap on contributions by eligible individuals and expanding the classes of individuals eligible to make HSA contributions. All of the changes included in the bill would be effective for taxable years beginning after December 31, 2025.
URL: https://gop-waysandmeans.house.gov/wp-content/uploads/2023/09/H.R.-5687-Bill-Text.pdf
URL: https://gop-waysandmeans.house.gov/wp-content/uploads/2023/09/JCT-Description-of-H.R.-5687.pdf

More specifically, H.R. 5687 would:

- Provide that individuals who are otherwise eligible to make HSA contributions are not precluded from doing so merely because of receiving care under a medical care program administered by the Department of Veterans Affairs or the Indian Health Service.
- Allow individuals enrolled only in Medicare Part A to continue to be eligible to contribute to an HSA. (Under current rules, the contribution limit falls to zero once an individual attains age 65 and becomes enrolled in Part A of Medicare.)
- Allow health plans categorized as "bronze" or "catastrophic"—which require comparatively high cost-sharing on the part of the insured—under the Patient Protection and Affordable Care Act (P.L. 111-148)—to qualify as HDHPs (thus allowing individuals to link them to tax-favored HSAs).
- Permit HDHPs to provide coverage of up to $500 for mental health benefits before satisfaction of the plan's annual deductible.
- Provide that an HSA established within 60 days after the date on which an individual's coverage under an HDHP begins may be used to fund—without penalty—eligible medical expenses incurred during that window, even if the HSA had not yet been established.
- Allow both spouses—provided both are eligible individuals for purposes of their own respective HSAs—to allocate their allowable catch-up contributions to the same HSA. (Spouses are prevented from establishing "joint" HSAs, and currently, dual-HSA couples may allocate their combined basic contribution limit between the two respective HSAs as they so desire; however, that flexibility does not extend to catch-up contributions.)
- Increase the annual contribution limit for HSAs such that it matches the sum of the annual deductible and out-of-pocket expenses permitted under an HDHP (amounts which themselves are indexed for inflation). Thus, in 2023, the HSA contribution limit would be increased to $7,500 for individuals with self-only coverage and $15,000 for those with family coverage (though, again, this provision would not become effective until 2026). Individuals over age 55 would continue to be allowed a $1,000 catch-up contribution.

The nonpartisan Joint Committee on Taxation (JCT) estimates that H.R. 5687, if enacted, would reduce federal revenues by more than $58 billion over the next 10 years, with the vast majority of that cost attributable to the proposal that would raise HSA contribution limits.
URL: https://www.jct.gov/publications/2023/jcx-42-23/

Bipartisan HSA Improvement Act of 2023

The Bipartisan HSA Improvement Act of 2023 (H.R. 5688: text, summary), was introduced by Ways and Means Committee members Lloyd Smucker, R-Pa., and Earl Blumenauer, D-Ore., and was approved 28-14 with the support of four Democrats. This bill includes tax provisions that would:
URL: https://gop-waysandmeans.house.gov/wp-content/uploads/2023/09/H.R.-5688-Bill-Text.pdf
URL: https://gop-waysandmeans.house.gov/wp-content/uploads/2023/09/JCT-Description-of-H.R.-5688.pdf

- Allow individuals who receive care under a direct primary care service arrangement—that is, an arrangement in which the individual receives solely primary care services provided by primary care practitioners for a fixed periodic fee—in addition to maintaining health coverage under an HDHP to contribute to an HSA. (Under current law, maintaining coverages outside an HDHP generally disqualifies one from contributing to an HSA.)

- Provide that individuals who receive certain qualified health services at a health care facility owned or leased by the individual's employer, or at a facility operated primarily for the benefit of the employer's employees will not be treated as maintaining other health coverage that would preclude them from contributing to an HSA.
- Provide that a spouse's participation in a health flexible spending arrangement (health FSA) is disregarded in determining whether an individual is able to contribute to an HSA.
- Allow individuals, provided certain requirements are met, to roll amounts in a health FSA or an employer-maintained health reimbursement arrangement (HRA) into an HSA.

These provisions would be effective for taxable years beginning after 2025.

The JCT estimates that H.R. 5688, if enacted, would reduce federal revenues by approximately $13 billion over the next decade. Thus, taken together, the two bills—if not offset by other budget measures—would increase federal deficits by more than $70 billion over 10 years. As approved by the committee, neither bill includes spending cuts or revenue increases to offset the deficit-increasing impact of the HSA changes.
URL: https://www.jct.gov/publications/2023/jcx-40-23/

Democrats: Benefits too skewed to the wealthy

Although the Bipartisan HSA Improvement Act was introduced on a bipartisan basis and cleared the committee with a handful of Democratic votes, most Democrats on the panel sharply criticized the budgetary cost and distributional impact of the HSA Modernization Act, arguing that its benefits—especially the higher HSA contribution limits—would predominantly flow to higher-income individuals. They also railed against the decision to mark up the legislation when the US government appears to be on the precipice of a shutdown as lawmakers remain unable to agree on a package of spending bills to fund federal departments and agencies for fiscal year 2024, which begins on October 1, or even a short-term measure that would keep the government's doors open while lawmakers work on a more durable spending pact. (See related coverage in this issue for additional details on the government funding talks.)

"We're on the verge of a government shutdown imposed on the American people by House Republicans," said Rep. Suzan DelBene, D-Wash. "[A]nd . . . here we are today with folks focused on trying to push through more than $70 billion in unfunded tax breaks that will overwhelmingly benefit the wealthy."

Although formal distributional tables of the legislation were not publicly available at press time, JCT Chief of Staff Thomas Barthold testified at the markup that his staff has estimated that more than half of HSA account holders have income in excess of $100,000.

Democrats also offered a number of amendments, all of which were batted away by Republicans.

The highly partisan nature of this week's mark-up, along with the uncertain near-term future of tax legislation in general, suggests that the road ahead for these HSA-related bills could be bumpy at best.

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