DESCRIPTION OF H.R. 1843, THE "TELEHEALTH EXPANSION ACT OF 2023"

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on June 7, 2023

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

June 5, 2023
JCX-12-23

CONTENTS

INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of H.R. 1843, the "Telehealth Expansion Act of 2023." This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 1843, the "Telehealth Expansion Act of 2023"* (JCX-12-23), June 5, 2023. This document can also be found on the Joint Committee on Taxation website at www.jct.gov. All section references in the document are to the Internal Revenue Code of 1986, as amended (the "Code"), unless otherwise stated.

A. Exemption for Telehealth Services

Present Law

Health savings accounts

An individual may contribute to a health savings account ("HSA") only if the individual is covered under a plan that meets the requirements for a high deductible health plan, as described below. An HSA is a tax-exempt trust or custodial account created exclusively to pay for the qualified medical expenses of the account holder and his or her spouse and dependents.[2] The HSA rules allow deductible contributions to, and tax-exempt distributions from, HSAs for current medical expenses as well as an income tax exemption for earnings on HSA investments to be used for future medical expenses.

Within limits,[3] an eligible individual is allowed a deduction for contributions to an HSA made by or on behalf of the individual.[4] Contributions to an HSA are excludible from an individual's income and from employment taxes if made by the individual's employer. Earnings in HSAs are not taxable.[5] Distributions from an HSA for qualified medical expenses are not includible in the HSA beneficiary's gross income.[6] Distributions from an HSA that are not used for qualified medical expenses are includible in the HSA beneficiary's gross income and are subject to an additional tax of 20 percent.[7] The 20-percent additional tax does not apply if the distribution is made after the beneficiary dies, becomes disabled, or attains the age of Medicare eligibility (age 65).[8]

High deductible health plans

A high deductible health plan ("HDHP") is a health plan that has an annual deductible of at least $1,500 (for 2023) for self-only coverage and twice this amount for family coverage ($3,000 for 2023), and for which the sum of the annual deductible and other annual out-of-pocket expenses (other than premiums) for covered benefits does not exceed $7,500 (for 2023)

---

[2] Sec. 223(d).

[3] For 2023, the basic limit on annual contributions that can be made to an HSA is $3,850 in the case of self-only coverage and $7,750 in the case of family coverage. Rev. Proc. 2022-24, 2022-20 I.R.B. 1075. The basic annual contributions limits are increased by $1,000 for individuals who have attained age 55 by the end of the taxable year (referred to as "catch-up" contributions). Sec. 223(b)(3).

[4] A family member (or any other person) may make contributions to an HSA on behalf of an eligible individual. See Notice 2004-50, Q & A 38, 2003-33, I.R.B. 196 (August 9, 2004).

[5] Sec. 223(e).

[6] Sec. 223(f)(1).

[7] Sec. 223(f)(2), (4).

[8] Sec. 223(f)(4).

for self-only coverage and twice this amount for family coverage ($15,000 for 2023).[9] These dollar thresholds are adjusted for inflation.[10]

An individual who is covered under an HDHP is eligible to contribute to an HSA if the individual is not also covered under a non-HDHP that provides coverage for any benefit (subject to certain exceptions) that is covered under the HDHP.[11]

Various types of coverage are disregarded for this purpose, including coverage of any benefit provided by permitted insurance, coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care, as well as certain limited coverage through health flexible spending arrangements.[12] Permitted insurance means insurance under which substantially all of the coverage provided relates to liabilities incurred under workers' compensation laws, tort liabilities, liabilities relating to ownership or use of property, or such other similar liabilities as specified by the Secretary under regulations. Permitted insurance also means insurance for a specified disease or illness, and insurance paying a fixed amount per day (or other period) of hospitalization.[13]

A plan does not fail to qualify as an HDHP by reason of failing to have a deductible for preventive care.[14]

For plan years beginning on or before December 31, 2021, an HDHP is permitted to cover telehealth and other remote care services without satisfaction of the plan's minimum deductible.[15] Thus, a health plan does not fail to be treated as an HDHP merely by reason of failing to require a deductible for telehealth and other remote care services for plan years beginning on or before December 31, 2021, and an individual who is covered under such a plan may contribute to an HSA.[16] Section 307 of Division P of the Consolidated Appropriations Act, 2022 extended the exemption for telehealth services to include months beginning after March 31, 2022, and before January 1, 2023.[17] Finally, Section 4151 of Division FF of the Consolidated

---

[9] Sec. 223(c)(2).

[10] Sec. 223(g).

[11] Sec. 223(c)(1).

[12] Sec. 223(c)(1)(B).

[13] Sec. 223(c)(3).

[14] Sec. 223(c)(2)(C).

[15] CARES Act, Pub. L. No. 116-136, sec. 3701, March 27, 2020.

[16] Notice 2020-29, 2020-22 I.R.B. 864, provides that this standard applies with respect to services provided on or after January 1, 2020.

[17] Pub. L. No. 117-103, March 15, 2022.

Appropriations Act, 2023, extended the exemption for telehealth services to include plan years beginning after December 31, 2022, and before January 1, 2025.[18]

Description of Proposal

The proposal provides a permanent safe harbor under which a plan does not fail to be treated as an HDHP merely by reason of providing, without satisfaction of the plan's deductible, telehealth and other remote care services.

Effective Date

The proposal is effective on the date of enactment.

[18] Pub. L. No. 117-328, December 29, 2022.

B. Estimated Revenue Effects of the Proposal

The proposal is estimated to have the following effect on Federal fiscal year budget receipts:

	Fiscal Years [Millions of Dollars]												
Item	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	**2023-28**	**2023-33**
Proposal [1]….	---	---	-225	-386	-471	-555	-605	-642	-681	-722	-766	-1,636	-5,053

NOTE: Details do not add to totals due to rounding.

[1] The proposal includes the following effects:

	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2023-28	2023-33
On-budget effects……….	---	---	-167	-293	-359	-422	-460	-487	-516	-547	-580	-1,240	-3,831
Off-budget effects………..	---	---	-58	-93	-112	-133	-145	-155	-165	-175	-186	-396	-1,222