

110TH CONGRESS  
1ST SESSION

# H. R. 2639

To amend the Internal Revenue Code of 1986 to modify the rules with respect to health savings accounts and medical savings accounts, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2007

Mr. BOUSTANY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to modify the rules with respect to health savings accounts and medical savings accounts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promoting Health for  
5 Future Generations Act of 2007”.

1 **SEC. 2. INCREASE IN HSA CONTRIBUTION LIMITATION.**

2 (a) IN GENERAL.—Subsection (b) of section 223 of  
3 the Internal Revenue Code of 1986 (relating to monthly  
4 limitation) is amended—

5 (1) by striking “\$2,250” in paragraph (2)(A)  
6 and inserting “the amount in effect under subsection  
7 (c)(2)(A)(ii)(I)”, and

8 (2) by striking “\$4,500” in paragraph (2)(B)  
9 and inserting “the amount in effect under subsection  
10 (c)(2)(A)(ii)(II)”.

11 (b) CONFORMING AMENDMENT.—Paragraph (1) of  
12 section 223(g) of such Code is amended by striking “sub-  
13 sections (b)(2)” and inserting “subsection”.

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to contributions in taxable years  
16 beginning after December 31, 2007.

17 **SEC. 3. MEDICARE AND VA HEALTHCARE ENROLLEES ELI-**  
18 **GIBLE TO CONTRIBUTE TO HSA.**

19 (a) IN GENERAL.—(1) Subsection (b) of section 223  
20 of the Internal Revenue Code of 1986 is amended by strik-  
21 ing paragraph (7).

22 (2) Subsection (c) of section 223 of such Code (relat-  
23 ing to definitions and special rules) is amended by adding  
24 at the end to following new paragraph:

25 “(6) SPECIAL RULE FOR INDIVIDUALS ENTI-  
26 TLED TO BENEFITS UNDER MEDICARE OR EN-



1           (1) AGE LIMITATION.—Subparagraph (A) of  
2           section 223(b)(3) of the Internal Revenue Code of  
3           1986 (relating to additional contributions for indi-  
4           viduals 55 or older) is amended by striking “age 55”  
5           and inserting “age 50”.

6           (2) CONTRIBUTION LIMITATION.—The table  
7           contained in section 223(b)(3) of such Code is  
8           amended—

9                   (A) by striking “\$900” and inserting  
10                   “\$2,000”, and

11                   (B) by striking “\$1,000” and inserting  
12                   “\$2,000”.

13           (3) CONFORMING AMENDMENT.—Paragraph (3)  
14           of section 223(b) of such Code is amended in the  
15           heading by striking “55” and inserting “50”.

16           (b) EFFECTIVE DATE.—The amendment made by  
17           this section shall apply to taxable years beginning after  
18           December 31, 2007.

19   **SEC. 5. ELIGIBILITY TO CONTRIBUTE TO HSA.**

20           (a) INDIVIDUALS ELIGIBLE FOR REIMBURSEMENT  
21           UNDER SPOUSE’S FLEXIBLE SPENDING ARRANGE-  
22           MENT.—Section 223(c)(1) of the Internal Revenue Code  
23           of 1986 (defining eligible individual) is amended by adding  
24           at the end the following new subparagraph:

1           “(C) SPECIAL RULE FOR CERTAIN FLEXI-  
2           BLE SPENDING ARRANGEMENTS.—For purposes  
3           of subparagraph (A)(ii), an individual shall not  
4           be treated as covered under a health plan de-  
5           scribed in such subparagraph merely because  
6           the individual is covered under a flexible spend-  
7           ing arrangement (within the meaning of section  
8           106(c)(2)) which is maintained by an employer  
9           of the spouse of the individual, but only if—

10                   “(i) the employer is not also the em-  
11                   ployer of the individual, and

12                   “(ii) the individual certifies to the em-  
13                   ployer and to the Secretary (in such form  
14                   and manner as the Secretary may pre-  
15                   scribe) that the individual and the individ-  
16                   ual’s spouse will not accept reimbursement  
17                   under the arrangement for any expenses  
18                   for medical care provided to the indi-  
19                   vidual.”.

20           (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 December 31, 2007.

1 **SEC. 6. PERMITTING MEDICARE SUPPLEMENTAL POLICY**  
2 **AS QUALIFIED MEDICAL EXPENSE.**

3 (a) IN GENERAL.—Clause (iv) of section  
4 223(d)(2)(C) of the Internal Revenue Code of 1986 (relat-  
5 ing to qualified medical expenses) is amended by striking  
6 “other than a medicare supplemental policy” and all that  
7 follows through “Social Security Act”).

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 2007.

11 **SEC. 7. DEDUCTION OF PREMIUMS FOR HIGH DEDUCTIBLE**  
12 **HEALTH PLANS.**

13 (a) IN GENERAL.—Part VII of subchapter B of chap-  
14 ter 1 of the Internal Revenue Code of 1986 (relating to  
15 additional itemized deductions for individuals) is amended  
16 by redesignating section 224 as section 225 and by insert-  
17 ing after section 223 the following new section:

18 **“SEC. 224. PREMIUMS FOR HIGH DEDUCTIBLE HEALTH**  
19 **PLANS.**

20 “(a) DEDUCTION ALLOWED.—In the case of an indi-  
21 vidual, there shall be allowed as a deduction for the tax-  
22 able year the aggregate amount paid by the taxpayer as  
23 premiums under a high deductible health plan with respect  
24 to months during such year for which such individual is  
25 an eligible individual with respect to such health plan.

26 “(b) DEFINITIONS.—For purposes of this section—

1           “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible  
2 individual’ means an individual who—

3           “(A) is described in section 223(c)(1), and

4           “(B) is the taxpayer or the taxpayer’s  
5 spouse and dependents.

6           “(2) HIGH DEDUCTIBLE HEALTH PLAN.—The  
7 term ‘high deductible health plan’ has the meaning  
8 given such term by section 223(c)(2).

9           “(c) SPECIAL RULES.—

10           “(1) DEDUCTION LIMITS.—

11           “(A) DEDUCTION ALLOWABLE FOR ONLY 1  
12 PLAN.—For purposes of this section, in the  
13 case of an individual covered by more than 1  
14 high deductible health plan for any month, the  
15 individual may only take into account amounts  
16 paid for such month for the plan with the low-  
17 est premium .

18           “(B) PLANS COVERING INELIGIBLE INDI-  
19 VIDUALS.—If 2 or more individuals are covered  
20 by a high deductible health plan for any month  
21 but only 1 of such individuals is an eligible indi-  
22 vidual for such month, only 50 percent of the  
23 aggregate amount paid by such eligible indi-  
24 vidual as premiums under the plan with respect

1 to such month shall be taken into account for  
2 purposes of this section.

3 “(2) GROUP HEALTH PLAN COVERAGE.—

4 “(A) IN GENERAL.—No deduction shall be  
5 allowed for an individual under subsection (a)  
6 for any amount paid for coverage under a high  
7 deductible health plan for a month if that indi-  
8 vidual participates in any coverage under a  
9 group health plan (within the meaning of sec-  
10 tion 5000 without regard to section 5000(d)).  
11 For purposes of the preceding sentence, an ar-  
12 rangement which constitutes individual health  
13 insurance shall not be treated as a group health  
14 plan if such arrangement is a high deductible  
15 health plan (as defined in section 223(c)(2)), or  
16 is a payment by an employer or employee orga-  
17 nization with respect to such high deductible  
18 health plan , notwithstanding that an employer  
19 or employee organization negotiates the cost or  
20 benefits of such arrangement.

21 “(B) EXCEPTION FOR PLANS ONLY PRO-  
22 VIDING CONTRIBUTIONS TO HEALTH SAVINGS  
23 ACCOUNTS.—Subparagraph (A) shall not apply  
24 to an individual if the individual’s only coverage  
25 under a group health plan for a month consists

1 of contributions by an employer to a health sav-  
2 ings account with respect to which the indi-  
3 vidual is the account beneficiary.

4 “(C) EXCEPTION FOR CERTAIN PER-  
5 MITTED COVERAGE.—Subparagraph (A) shall  
6 not apply to an individual if the individual’s  
7 only coverage under a group health plan for a  
8 month is coverage described in clause (i) or (ii)  
9 of section 223(c)(1)(B).

10 “(3) MEDICAL AND HEALTH SAVINGS AC-  
11 COUNTS.—Subsection (a) shall not apply with re-  
12 spect to any amount which is paid or distributed out  
13 of an Archer MSA or a health savings account which  
14 is not included in gross income under section 220(f)  
15 or 223(f), as the case may be.

16 “(4) COORDINATION WITH DEDUCTION FOR  
17 HEALTH INSURANCE OF SELF-EMPLOYED INDIVID-  
18 UALS.—Any amount taken into account by the tax-  
19 payer in computing the deduction under section  
20 162(l) shall not be taken into account under this  
21 section.

22 “(5) COORDINATION WITH MEDICAL EXPENSE  
23 DEDUCTION.—Any amount taken into account by  
24 the taxpayer in computing the deduction under this

1 section shall not be taken into account under section  
2 213.”.

3 (b) DEDUCTION ALLOWED WHETHER OR NOT INDI-  
4 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
5 of section 62 of such Code is amended by inserting before  
6 the last sentence at the end the following new paragraph:

7 “(22) PREMIUMS FOR HIGH DEDUCTIBLE  
8 HEALTH PLANS.—The deduction allowed by section  
9 224.”.

10 (c) COORDINATION WITH SECTION 35 HEALTH IN-  
11 SURANCE COSTS CREDIT.—Section 35(g)(2) of such Code  
12 (relating to coordination with other deductions) is amend-  
13 ed by striking “or 213” and inserting “, 213, or 224”.

14 (d) CLERICAL AMENDMENT.—The table of sections  
15 for part VII of subchapter B of chapter 1 of such Code  
16 is amended by redesignating the item relating to section  
17 224 as an item relating to section 225 and by inserting  
18 before such item the following new item:

“Sec. 224. Premiums for high deductible health plans.”.

19 (e) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to taxable years beginning after  
21 December 31, 2007.

22 **SEC. 8. MODIFYING SAFE HARBOR RULES FOR**  
23 **DEDUCTIBLES FOR HIGH DEDUCTIBLE**  
24 **HEALTH PLANS.**

25 (a) IN GENERAL.—

1           (1) DEDUCTIBLE FOR PRESCRIBED DRUGS.—  
2           Subparagraph (C) of section 223(c)(2) of the Inter-  
3           nal Revenue Code of 1986 (defining high deductible  
4           health plan) is amended by striking “a deductible  
5           for preventative care” and all that follows and in-  
6           serting the following: “a deductible for—

7                           “(i) preventive care (within the mean-  
8                           ing of section 1861 of the Social Security  
9                           Act, except as otherwise provided by the  
10                          Secretary), or

11                          “(ii) a prescribed drug (as defined in  
12                          section 213).”.

13           (2) INDIVIDUAL DEDUCTIBLE LIMIT FOR FAM-  
14           ILY PLANS.—Section 223(c)(2) of such Code is  
15           amended by adding at the end the following new  
16           subparagraph:

17                          “(E) SPECIAL RULE FOR FAMILY COV-  
18                          ERAGE.—A health plan providing family cov-  
19                          erage shall not fail to meet the requirements of  
20                          subparagraph (A)(i)(II) merely because the  
21                          plan elects to provide both—

22                                  “(i) an aggregate annual deductible  
23                                  limit for all individuals covered by the plan  
24                                  which is not less than the amount in effect  
25                                  under subparagraph (A)(i)(II), and

1                   “(ii) an annual deductible limit for  
2                   each individual covered by the plan which  
3                   is not less than the amount in effect under  
4                   subparagraph (A)(i)(I).”.

5                   (3) CONFORMING AMENDMENT.—Subparagraph  
6                   (C) of section 223(c)(2) of such Code is amended in  
7                   the heading by inserting “OR PRESCRIBED DRUG”  
8                   after “PREVENTIVE CARE”.

9                   (b) EFFECTIVE DATE.—The amendments made by  
10                  this section shall apply to taxable years beginning after  
11                  December 31, 2007.

12                  **SEC. 9. MSA PLAN DEDUCTIBLE EXCEPTION FOR PREVEN-**  
13                  **TIVE CARE.**

14                  (a) IN GENERAL.—Paragraph (3) of section 1859(b)  
15                  of the Social Security Act (42 U.S.C. 1359w–28(b)) is  
16                  amended by adding at the end the following new subpara-  
17                  graph:

18                                  “(C) EXCEPTION FOR ABSENCE OF PRE-  
19                                  VENTIVE CARE DEDUCTIBLE.—A plan shall not  
20                                  fail to be treated as a MSA plan by reason of  
21                                  failing to have a deductible for preventive care  
22                                  (within the meaning of such term as applied for  
23                                  purposes of section 223(c)(2)(C) of the Internal  
24                                  Revenue Code of 1986).”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall take effect on January 1, 2008.

3 **SEC. 10. PERMITTING INDIVIDUAL CONTRIBUTIONS TO**  
4 **MEDICARE ADVANTAGE MSA.**

5 (a) IN GENERAL.—Paragraph (2) of section 138(b)  
6 of the Internal Revenue Code of 1986 (defining Medicare  
7 Advantage MSA) is amended by striking “or” at the end  
8 of subparagraph (A), by inserting “or” at the end of sub-  
9 paragraph (B), and by adding at the end the following  
10 new subparagraph:

11 “(C) any contributions by or for the ben-  
12 efit of the account holder (other than a con-  
13 tribution described in subparagraph (A)) for  
14 the taxable year, the sum of which do not ex-  
15 ceed the difference of—

16 “(i) the amount of the annual deduct-  
17 ible (described in section 1859(b)(3)(B) of  
18 the Social Security Act) for the MSA plan  
19 in which the individual is enrolled, over

20 “(ii) the amount of contributions de-  
21 scribed in subparagraph (A) for the tax-  
22 able year.”

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 2007.

1 **SEC. 11. ALLOWING MSA AND HSA ROLLOVER TO ADULT**  
2 **CHILD OF ACCOUNT HOLDER.**

3 (a) MSAs.—(1) Subparagraph (A) of section  
4 220(f)(8) of the Internal Revenue Code of 1986 (relating  
5 to treatment after death of account holder) is amended—

6 (A) by inserting “or adult child” after “sur-  
7 viving spouse”,

8 (B) by inserting “or adult child, as the case  
9 may be,” after “the spouse”, and

10 (C) by inserting “OR ADULT CHILD” after  
11 “SPOUSE” in the heading thereof.

12 (2) Paragraph (8) of section 220(f) of such Code is  
13 amended by adding at the end the following new subpara-  
14 graph:

15 “(C) ADULT CHILD.—For purposes of this  
16 paragraph, the term ‘adult child’ means an in-  
17 dividual—

18 “(i) who is a child of the deceased in-  
19 dividual, and

20 “(ii) with respect to whom a deduc-  
21 tion under section 151 would not be allow-  
22 able to another taxpayer for a taxable year  
23 beginning in the calendar year in which  
24 such individual’s taxable year begins.”.

1 (b) HSAs.—(1) Subparagraph (A) of section  
2 223(f)(8) of such Code (relating to treatment after death  
3 of account beneficiary) is amended—

4 (A) by inserting “or adult child” after “sur-  
5 viving spouse”,

6 (B) by inserting “or adult child, as the case  
7 may be,” after “the spouse”, and

8 (C) by inserting “OR ADULT CHILD” after  
9 “SPOUSE” in the heading thereof.

10 (2) Paragraph (8) of section 223(f) of such Code is  
11 amended by adding at the end the following new subpara-  
12 graph:

13 “(C) ADULT CHILD.—For purposes of this  
14 paragraph, the term ‘adult child’ has the mean-  
15 ing given to such term by section  
16 220(f)(8)(C).”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning after  
19 December 31, 2007.

20 **SEC. 12. PERMITTING MEDICARE ADVANTAGE MSA FUNDS**  
21 **TO BE USED FOR WELLNESS AND FITNESS**  
22 **PROGRAMS.**

23 (a) IN GENERAL.—Paragraph (1) of section 138(c)  
24 of the Internal Revenue Code of 1986 (relating to special  
25 rules for distributions) is amended by striking “and” at

1 the end of subparagraph (A), by striking the period at  
2 the end of subparagraph (B) and inserting “, and”, and  
3 by adding at the end the following new subparagraph:

4           “(C) qualified medical expenses shall in-  
5           clude amounts paid to a gym for enrollment in  
6           a wellness or fitness program.”.

7       (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to taxable years beginning after  
9 December 31, 2007.

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