

# Legislate<sup>®</sup>

## Key Legislative Developments Affecting Your Human Resources US

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### An Ounce of Prevention: Bipartisan Bill Would Expand HDHP Coverage

A bipartisan bill introduced in the House and Senate would expand HDHP coverage to include coverage for chronic disease prevention and treatment without impacting HSA eligibility. Additionally, the White House has issued its budget proposal for the 2019 fiscal year.

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#### Chronic Disease Management Act

The bipartisan Chronic Disease Management Act of 2018, introduced in the House and Senate, would expand HDHP coverage without impacting HSA eligibility. The legislation is sponsored by Sens. Tom Carper, D-Del., and John Thune, R-S.D., and Reps. Dianne Black, R-Tenn., and Earl Blumenauer, D-Ore. The House version of the bill can be found [here](#). Companion legislation introduced in the Senate can be found [here](#). Some experts say that coverage for prevention and treatment of chronic diseases is critical for reducing healthcare costs. The bill's drafters contend that limited and targeted interventions can prevent more costly therapies, often associated with unmanaged chronic diseases. The bill states that, "these types of chronic care preventive services should be encouraged to maximize the effectiveness and positive outcomes of care provided under high deductible health plans."

Subject to certain limitations, the act would allow an HSA-eligible high deductible health plans (HDHP) to cover chronic disease prevention and treatment prior to the deductible being met. Promoters of the bill say that such coverage encourages the concept of "Value-Based Insurance Design" and would lead to improved quality and reduced costs specifically for individuals with chronic diseases but also more generally for overall health coverage spend across the country.

Under current HSA law and regulations, individuals are eligible to contribute to an HSA only if they are covered under an HDHP and have no other impermissible health coverage. To qualify as an HDHP, a health plan must meet specific requirements, including that it pay no benefits for any year, other than benefits for preventive



care services, until the deductible for that year is satisfied. IRS guidance provides a safe harbor definition of “preventive care” that includes, but is not limited to, the following:

- Periodic health evaluations, such as annual physicals (including associated tests and diagnostic procedures)
- Routine prenatal and well-child care
- Immunizations for adults and children
- Tobacco-cessation and obesity weight-loss programs
- Screening devices (the IRS has provided an extensive list of permissible screening devices and tests)

An eligible HDHP can also provide any additional preventive services that must be provided without any cost-sharing as required by the ACA. (See our [September 17, 2013](#) *For Your Information*.)

The act essentially would expand permitted preventive care coverage, by creating a subsection in the statute entitled “Chronic Disease Prevention.” This provision would include care and prescription medicines for the treatment of medically complex chronic conditions that:

- Are substantially disabling or life threatening
- Have a high risk of hospitalization or other significant adverse health outcomes
- Require specialized delivery systems across domains of care

**Comment.** The language in the bill is vague; it does not define terms nor detail examples of those chronic conditions or what treatment(s) would be permitted. Historically, the HDHP/HSA design model was put in place to help individuals become better health coverage consumers. Expanding HSA-qualified HDHP coverage to include care and prescription medication for the treatment of “medically complex” chronic conditions would likely help to increase employee participation in HDHP/HSA group health plans. Presumably, if the language in the bill is not amended to provide more specifics, the IRS would need to issue guidance to clarify these terms.

### President’s Proposed Budget

The White House issued its annual budget proposal. Drafted prior to last week’s budget deal (see [last week’s Legislate](#)), it sets forth the administration’s policy priorities, but ultimately may not have much sway on the Hill. The proposal would impact health and retirement benefits, including:

- \$675 billion in savings by repealing and replacing the ACA with state block grants — to stand in for many ACA mandates
- Support for Association Health Plans through targeted EBSA funding
- A proposal to improve PBGC solvency by increasing multiemployer plan premiums — adding a variable rate premium and an exit premium

## Looking Forward

Employee benefit issues are likely to be pushed to the back burner in the next few weeks as Congress struggles to address immigration reform and other pressing issues.

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