

# Legislate<sup>®</sup>

## Key Legislative Developments Affecting Your Human Resources US

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### Bipartisan Efforts Would Expand HSAs

Congress is working on several items that would impact employer-provided group health plans. In an attempt to improve access and flexibility, a bipartisan bill introduced in the House would expand HSAs to address a potpourri of issues including preventive care, prescription drug coverage and on-site clinic care. Additionally, new legislation has been introduced to address ACA marketplace destabilization.

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#### Bipartisan HSA Improvement Act

Introduced earlier this month, by Rep Mike Kelly, R-Pa., Earl Blumenauer, D-Ore., Erik Paulsen, R-Minn., and Ron Kind, D-Wis., the [Bipartisan HSA Improvement Act of 2018](#) would make a number of significant health savings account (HSA) enhancements that would be favorable for employers offering HDHP/HSA coverage. Specific provisions include:

- Expanding permissible coverage to specifically include all HIPAA excepted benefits. Includes coverage (not otherwise coordinated with the HDHP) for specified disease or illness, and hospital or fixed indemnity insurance
  - Comment.** Currently, specific, but not all, HIPAA excepted benefits are considered permissible coverage for those making HSA contributions. This provision would provide that coverage under any excepted benefits would not prevent an individual from being HSA-eligible.
- Adding a special rule for employer on-site clinics and retail health clinics coverage. The act would permit coverage for physicals, immunizations, over-the-counter medications, certain medical tests (for infectious diseases, e.g., strep) and management of “medically complex chronic conditions”
- Allowing HSA contributions even if the employee has coverage under a health FSA of a spouse’s employer
- Permitting the use of HSA funds to cover medical expenses for adult children up to age 26



- Permitting HSA contributions for individuals covered under Health Reimbursement Arrangements (HRAs) and FSAs, with some limitation, as long as these plans are converted to a post-deductible, preventive care, limited purpose, retirement, or suspended HRA for the individual for the remaining duration of the plan year
- Enabling a one-time, limited rollover (qualified HSA distribution) for health FSAs and HRAs directly to an individual's HSA
- Sanctioning pre-deductible coverage for certain services and prescription drugs that would prevent the progression of chronic diseases

**Comment.** This chronic disease provision would encapsulate a concept introduced in a bipartisan bill in February. The Chronic Disease Management Act is aimed at allowing HSA-eligible, high-deductible health plans (HDHPs) to cover chronic disease prevention and treatment prior to the deductible being met. (See our [February 16, 2018 Legislate](#).)

The act would also change the definition of qualified medical expenses to include amounts paid for certain physical activity, fitness and exercise programs.

## Undo Sabotage and Expand Affordability of Health Insurance Act

Bipartisan efforts in late 2017 produced two bills that would help stabilize the individual marketplace. A bill sponsored by Senators Patty Murray, D-Wash., and Lamar Alexander, R-Tenn., would lower healthcare costs and help stabilize markets (the Bipartisan Health Care Stabilization Act of 2017) and another, sponsored by Susan Collins, R-Maine, and Bill Nelson, D-Fla., would provide a reinsurance program (the Lower Premiums Through Reinsurance Act of 2017). (See our [January 12, 2018 Legislate](#).)

Most recently, Representatives Frank Pallone, Jr., D-N.J., Richard Neal, D-Mass., Bobby Scott, D-Va., and John Sarbanes, D-Md., sponsored the [Undo Sabotage And Expand Affordability of Health Insurance Act](#), which is designed to help stabilize the marketplace by pulling together concepts from these two Senate bills. This newest legislation is aimed at improving affordability and reducing premium costs for consumers in part by funding cost-sharing subsidies and establishing a reinsurance program.

**Comment.** While stabilizing the individual marketplace will not have a direct impact on employers, many experts consider it an important piece to the healthcare puzzle. A destabilized marketplace could result in cost-shifting from stakeholders in the marketplace to large employers. At this time, however, it's unclear if Congress will take up any of these measures in its omnibus bill that is part of the budget deal. (See our [February 9, 2018 Legislate](#).)

## Here We Go Again

Looking ahead, Congress has until midnight March 23 to pass a spending bill and avoid another government shutdown. Since passing a budget deal in early February, lawmakers have been negotiating how to allocate the money and what riders to include in the bill. (See our [February 9, 2018 Legislate](#).)

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