

112TH CONGRESS
1ST SESSION

S. 1171

To amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

IN THE SENATE OF THE UNITED STATES

JUNE 9, 2011

Mr. SCHUMER (for himself, Ms. COLLINS, Mr. WHITEHOUSE, Mr. BINGAMAN, Mr. BROWN of Ohio, Ms. CANTWELL, Mrs. MURRAY, Mr. BLUMENTHAL, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. LAUTENBERG, Mr. WYDEN, Mr. FRANKEN, Mr. KERRY, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

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 "Tax Parity for Health
5 Plan Beneficiaries Act of 2011".

1 **SEC. 2. APPLICATION OF ACCIDENT AND HEALTH PLANS**
 2 **TO ELIGIBLE BENEFICIARIES.**

3 (a) **EXCLUSION OF CONTRIBUTIONS.**—Section 106 of
 4 the Internal Revenue Code of 1986 is amended by adding
 5 at the end the following new subsection:

6 “(g) **COVERAGE PROVIDED FOR ELIGIBLE BENE-**
 7 **FICIARIES OF EMPLOYEES.**—

8 “(1) **IN GENERAL.**—Subsection (a) shall apply
 9 with respect to employer-provided coverage under an
 10 accident or health plan for any eligible beneficiary of
 11 the employee.

12 “(2) **ELIGIBLE BENEFICIARY.**—For purposes of
 13 this subsection, the term ‘eligible beneficiary’ means
 14 any individual who is eligible to receive benefits or
 15 coverage under an accident or health plan.”.

16 (b) **EXCLUSION OF AMOUNTS EXPENDED FOR MED-**
 17 **ICAL CARE.**—The first sentence of section 105(b) of the
 18 Internal Revenue Code of 1986 is amended—

19 (1) by striking “and any child” and inserting
 20 “any child”, and

21 (2) by inserting “, and any eligible beneficiary
 22 (within the meaning of section 106(g)) with respect
 23 to the taxpayer” after “age 27”.

24 (c) **PAYROLL TAXES.**—

25 (1) Section 3121(a)(2) of the Internal Revenue
 26 Code of 1986 is amended—

1 (A) by striking “or any of his dependents”
2 in the matter preceding subparagraph (A) and
3 inserting “, any of his dependents, or any eligi-
4 ble beneficiary (within the meaning of section
5 106(g)) with respect to the employee”,

6 (B) by striking “or any of his dependents,”
7 in subparagraph (A) and inserting “, any of his
8 dependents, or any eligible beneficiary (within
9 the meaning of section 106(g)) with respect to
10 the employee,” and

11 (C) by striking “and their dependents”
12 both places it appears and inserting “and such
13 employees’ dependents and eligible beneficiaries
14 (within the meaning of section 106(g))”.

15 (2) Section 3231(e)(1) of such Code is amend-
16 ed—

17 (A) by striking “or any of his dependents”
18 and inserting “, any of his dependents, or any
19 eligible beneficiary (within the meaning of sec-
20 tion 106(g)) with respect to the employee,”
21 and

22 (B) by striking “and their dependents”
23 both places it appears and inserting “and such
24 employees’ dependents and eligible beneficiaries
25 (within the meaning of section 106(g))”.

1 (3) Section 3306(b)(2) of such Code is amend-
2 ed—

3 (A) by striking “or any of his dependents”
4 in the matter preceding subparagraph (A) and
5 inserting “, any of his dependents, or any eligi-
6 ble beneficiary (within the meaning of section
7 106(g)) with respect to the employee,”,

8 (B) by striking “or any of his dependents”
9 in subparagraph (A) and inserting “, any of his
10 dependents, or any eligible beneficiary (within
11 the meaning of section 106(g)) with respect to
12 the employee”, and

13 (C) by striking “and their dependents”
14 both places it appears and inserting “and such
15 employees’ dependents and eligible beneficiaries
16 (within the meaning of section 106(g))”.

17 (4) Section 3401(a) of such Code is amended
18 by striking “or” at the end of paragraph (22), by
19 striking the period at the end of paragraph (23) and
20 inserting “; or”, and by inserting after paragraph
21 (23) the following new paragraph:

22 “(24) for any payment made to or for the ben-
23 efit of an employee or any eligible beneficiary (within
24 the meaning of section 106(g)) if at the time of such
25 payment it is reasonable to believe that the employee

1 will be able to exclude such payment from income
2 under section 106 or under section 105 by reference
3 in section 105(b) to section 106(g).”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2011.

7 **SEC. 3. EXPANSION OF DEPENDENCY FOR PURPOSES OF**
8 **DEDUCTION FOR HEALTH INSURANCE COSTS**
9 **OF SELF-EMPLOYED INDIVIDUALS.**

10 (a) IN GENERAL.—Paragraph (1) of section 162(l)
11 of the Internal Revenue Code of 1986 is amended by strik-
12 ing “and” at the end of subparagraph (C), by striking the
13 period at the end of subparagraph (D) and inserting a
14 comma and by adding at the end the following new sub-
15 paragraphs:

16 “(E) any individual who—

17 “(i) satisfies the age requirements of
18 section 152(c)(3)(A),

19 “(ii) bears a relationship to the tax-
20 payer described in section 152(d)(2)(H),
21 and

22 “(iii) meets the requirements of sec-
23 tion 152(d)(1)(C), and

24 “(F) one individual who—

25 “(i) is at least age 19,

1 “(ii) bears a relationship to the tax-
2 payer described in section 152(d)(2)(H),
3 and

4 “(iii) is not the spouse of the taxpayer
5 and does not bear any relationship to the
6 taxpayer described in subparagraphs (A)
7 through (G) of section 152(d)(2).”.

8 (b) CONFORMING AMENDMENT.—Subparagraph (B)
9 of section 162(l)(2) of such Code is amended by inserting
10 “, (E), or (F)” after “subparagraph (D)”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2011.

14 **SEC. 4. EXTENSION TO ELIGIBLE BENEFICIARIES OF SICK**
15 **AND ACCIDENT BENEFITS PROVIDED TO**
16 **MEMBERS OF A VOLUNTARY EMPLOYEES’**
17 **BENEFICIARY ASSOCIATION AND THEIR DE-**
18 **PENDENTS.**

19 (a) IN GENERAL.—Section 501(c)(9) of the Internal
20 Revenue Code of 1986 is amended by inserting : “and any
21 individual who is an eligible beneficiary (within the mean-
22 ing of section 106(g)), as determined under the terms of
23 a medical benefit, health insurance, or other program”
24 after “age 27”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2011.

4 **SEC. 5. FLEXIBLE SPENDING ARRANGEMENTS AND HEALTH**
5 **REIMBURSEMENT ARRANGEMENTS.**

6 The Secretary of Treasury shall issue guidance of
7 general applicability within 180 days after the date of the
8 enactment of this Act providing that medical expenses that
9 otherwise qualify—

10 (1) for reimbursement from a flexible spending
11 arrangement under regulations in effect on such
12 date of enactment may be reimbursed from an em-
13 ployee's flexible spending arrangement, notwith-
14 standing the fact that such expenses are attributable
15 to any individual who is not the employee's spouse
16 or dependent (within the meaning of section 105(b)
17 of the Internal Revenue Code of 1986) but is an eli-
18 gible beneficiary (within the meaning of section
19 106(g) of such Code) under the flexible spending ar-
20 rangement with respect to the employee, and

21 (2) for reimbursement from a health reimburse-
22 ment arrangement under regulations in effect on
23 such date of enactment may be reimbursed from an
24 employee's health reimbursement arrangement, not-
25 withstanding the fact that such expenses are attrib-

1 utable to an individual who is not a spouse or de-
 2 pendent (within the meaning of section 105(b) of
 3 such Code) but is an eligible beneficiary (within the
 4 meaning of section 106(g) of such Code) under the
 5 health reimbursement arrangement with respect to
 6 the employee.

7 **SEC. 6. EXTENSION OF QUALIFIED MEDICAL EXPENSES**
 8 **FROM HEALTH SAVINGS ACCOUNTS.**

9 (a) IN GENERAL.—Subparagraph (A) of section
 10 223(d)(2) of the Internal Revenue Code of 1986 is amend-
 11 ed—

12 (1) by striking “and any dependent” and in-
 13 serting “any dependent”, and

14 (2) by inserting “, and any qualified bene-
 15 ficiary” after “thereof”).

16 (b) QUALIFIED BENEFICIARY.—Paragraph (2) of
 17 section 223(d) of the Internal Revenue Code of 1986 is
 18 amended by adding at the end the following new subpara-
 19 graph:

20 “(D) QUALIFIED BENEFICIARY.—For pur-
 21 poses of subparagraph (A), the term ‘qualified
 22 beneficiary’ means any individual who is de-
 23 scribed in subparagraph (D) or (E) of section
 24 162(l)(1).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2011.

4 **SEC. 7. EXTENSION OF FUNDING MECHANISM FOR MED-**
5 **ICAL BENEFITS FOR RETIREES AND THEIR**
6 **FAMILIES.**

7 (a) IN GENERAL.—Section 401(h) of the Internal
8 Revenue Code of 1986 is amended by inserting “, and any
9 eligible beneficiary (within the meaning of section 106(g))
10 of the retired employee” after “age 27”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to taxable years beginning after
13 December 31, 2011.

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