

Benefit Advantage, Inc.

Proposed House Bill H.R. 3962: Affordable Health Care for America Act

H.R. 3962, the House health bill ([Affordable Health Care for America Act](#)) was released on 10/29/09. At 1,990 pages it is a combination of three other bills that were put forth by House Education and Labor, Energy and Commerce, and Ways and Means committees. After reviewing the legislation we found the following items of interest for tax-advantaged benefit plans.

1. **Sec. 531.** Distributions for medicine qualified only if for prescribed drug or insulin. Provides that nontaxable reimbursements from health flexible spending accounts, health reimbursement arrangements, and health savings accounts do not include a medicine or drug unless the medicine or drug is prescribed or is insulin. Applies to expenses incurred after 12/31/10.
2. **Sec. 532.** Limitation on health flexible spending arrangements under cafeteria plans. **Limits salary reduction contributions to health flexible spending arrangements to \$2,500 (indexed to the consumer price index). Cap applies to taxable years beginning after 12/31/12.**
3. **Sec. 533.** Increase in penalty for nonqualified distributions from **health savings accounts**. Increases the 10 percent penalty on distributions from health savings accounts that are not used to pay for health related expenditures to 20 percent. **Applies to taxable years after 12/31/10.**
4. **Sec. 542.** Offering of exchange-participating health benefit plans through cafeteria plans. Provides that coverage purchased through the Exchange may not be purchased on a pre-tax salary reduction basis unless the purchaser's employer is eligible to offer employer coverage through the Exchange.
5. Require companies with a payroll of \$500,000 or more to offer employees' health coverage, or face minimum 2 percent penalty on payroll (up from \$250,000 in earlier House versions). The penalty increases based on payroll (e.g., those with payroll greater than \$750,000 would pay a penalty of 8.0 percent); and establish a public plan with negotiated rates; provider participation would be voluntary. (Read more beginning on page 308.)
6. The legislation does not include a tax on high-cost health plans. The main financing mechanism is a 5.4 surtax on high-income individuals defined as married couples with adjusted gross incomes exceeding \$1 million a year and individuals over \$500,000.

Other elements of the bill:

- Forbid plans from basing premiums or denials of care on factors such as pre-existing conditions, race, or gender, and restrict the use of age rating.
- Require health plans for children to cover dental, hearing and vision care.
- Require health plans offered through the exchange system (and employer plans) to cover preventive care.
- Close the Medicare Part D prescription drug program "doughnut hole", which is the gap that exists when coverage for standard prescription expenses ends but catastrophic coverage has not yet begun.
- Place a cap on patient out-of-pocket expenses.
- Provide affordability credits for individuals and families that would help them pay their health insurance premiums as long as they meet certain income requirements.
- Provide health insurance subsidies for small businesses.
- Require negotiation of drug prices for Medicare.