Whereas, The Primary Care Enhancement Act (H.R. 365 and S. 1358) is a bipartisan bill which expands access to high-functioning primary care services for Americans of all income and age levels. The legislation clarifies to the tax code to remove a major federal regulatory barrier keeping patients, providers and employers who use Health Savings Accounts (HSAs) from using innovative Direct Primary Care (DPC) medical homes to improve health outcomes and reduce costs; and

Whereas, Internal Revenue Service (IRS) rules prohibit individuals with HSAs paired with high deductible health plans (HDHPs) from having an agreement with a DPC provider; and

Whereas, The IRS incorrectly interprets DPC arrangements as health plans under Section 223(c) of the Internal Revenue Code; furthermore IRS says the law is unclear whether or not primary care services are qualified health expenses under Section 213(d) of the code, if services are paid for with a capitated periodic fee rather than fee for service; and

Whereas, The Primary Care Enhancement Act clarifies the tax code, making it clear that patients with HSAs paired with HDHPs have access to great primary care with a DPC medical home; and

Whereas, Department of Health and Human Services (HHS) regulations already define DPC medical homes as primary care services – HHS rules note that they are an important delivery reform being defined in state laws; and

Whereas, Current IRS policy inappropriately interprets DPC arrangements as a form of health plan—despite other interpretations in state and federal law; and

Whereas, As long as IRS interprets DPC as a health plan, simply having an agreement with a DPC provider bars an individual from funding an HSA; and

Whereas, IRS rules also need to be clarified to allow fees for periodic fee-based DPC to be paid for using HSA funds; and

Whereas, IRS regulations are clear: HSAs must be paired with an HDHP, and the HSA holder may not have a second health plan; and

Whereas, Twenty-three states have enacted statutes defining DPC outside of state insurance regulation and many others offer guidance which concurs that DPC Medical Homes are medical services, not health plans; and
Whereas, DPC is currently offered in exchanges, with self-insured employers, unions, in Medicare Advantage and Medicaid MCOs; and

Whereas, Individuals with HSAs are the only people with health coverage who are barred by federal regulations from having a DPC provider; therefore be it

RESOLVED, That our American Medical Association, pursuant to H-385.912, actively lobby Congress to pass the Primary Care Enhancement Act. (Directive to Take Action)

Fiscal Note: Not yet determined

Received: 05/01/18

RELEVANT AMA POLICY

Direct Primary Care H-385.912
Our AMA supports inclusion of Direct Primary Care as a qualified medical expense by the Internal Revenue Service.
Citation: Res. 103, A-16