Whereas, The healthcare system is constantly changing, and expanding access to quality medical care is a top priority of organized medicine; and

Whereas, There is predicted to be a shortage of primary care physicians over the next decade, and some primary care physicians are choosing Direct Primary Care (DPC) as a means to stay independent rather than be acquired or employed by a hospital or health system; and

Whereas, Direct Primary Care is an alternative payment model intended to improve access to highly functioning healthcare with a simple, flat affordable membership fee; and

Whereas, The defining element of DPC is an enduring and trusting relationship between a patient and his or her primary care provider; and

Whereas, The goal of DPC is better health outcomes, lower costs, and an enhanced patient experience, where there is no third-party billing; and

Whereas, Direct Primary Care is often referred to as “concierge” or “retainer” medicine; and

Whereas, Current IRS rules impede individuals with Health Savings Accounts (HSAs) from using these funds to pay for Direct Primary Care or even entering into periodic-fee DPC agreements because the current Internal Revenue Code (IRC) clearly states that HSAs must be paired with a high deductible health plan (HDHP), and Section 223(c) of the IRC also prohibits individuals with HSAs from having a second health plan to cover services not covered by the HDHP; and

Whereas, Current Treasury Department interpretation of the IRC treats Direct Primary Care monthly fee arrangements like a second health plan, rather than a payment for a medical service. Under current policy, individuals with HSAs are effectively barred from having a relationship with a DPC provider, because the DPC agreement makes the individual ineligible to fund the HSA; and

Whereas, 23 states have passed laws defining DPC as a medical service outside of health plan or insurance regulation, which would address some of the necessary concerns; and

Whereas, The Internal Revenue Code (IRC) is unclear about whether monthly payments to physicians practicing under the DPC model are considered a “qualified medical expense,” and when the regulations for HSAs were developed, DPC was not contemplated; and
Whereas, Two parts of the IRC need clarification; first, that DPC medical homes do not constitute a health plan under IRS Section 223(c), and second, that periodic payments to DPC practices for primary care services are to be treated as qualified medical expenses under IRC 213(d); therefore be it

RESOLVED, That our American Medical Association adopt policy that the use of a health savings account (HSA) to access direct primary care providers and/or to receive care from a direct primary care medical home constitutes a bona fide medical expense, and that particular sections of the IRS code related to qualified medical expenses should be amended to recognize the use of HSA funds for direct primary care and direct primary care medical home models as a qualified medical expense (New HOD Policy); and be it further

RESOLVED, That our AMA seek federal legislation or regulation, as necessary, to amend appropriate sections of the IRS code to specify that direct primary care access or direct primary care medical homes are not health “plans” and that the use of HSA funds to pay for direct primary care provider services in such settings constitutes a qualified medical expense, enabling patients to use Health Savings Accounts (HSAs) to help pay for Direct Primary Care and to enter DPC periodic-fee agreements without IRS interference or penalty. (Directive to Take Action)

Fiscal Note: Not yet determined

Received: 04/25/19